

# **General Regulation Provisions**

2018 Edition

**Helvetia LOB Invest  
Group Foundation for Employee Pensions  
Basle**





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# Object and Scope

## 1 Basis

### 1.1 Employee benefit institution

#### 1.1.1

The

#### **Helvetia LOB Invest**

#### **Group Foundation for Employee Pensions Basle**

(hereinafter called the Foundation) has the object of implementing the occupational benefit scheme, thereby protecting the staff of the associated company against the economic effects of old age, death and earning disability.

#### 1.1.2

The Foundation is established as a collective Foundation. It is registered with BVG- und Stiftungsaufsicht beider Basel (BSABB).

### 1.2 Association with the Foundation

#### 1.2.1

The company specified in the benefit plan is associated to the Foundation. Within the Foundation, there is a separate pension fund with separate pension fund assets for this company.

#### 1.2.2

The employees of the company or their survivors shall be entitled to the benefits specified in the benefit plan within the framework of the following provisions as the beneficiaries of the Foundation.

### 1.3 Reinsurance

#### 1.3.1

To cover the risks of death (before retirement) and earning disability, a collective life insurance contract has been concluded between the Foundation, as policyholder, and Helvetia Swiss Life Insurance Company Ltd, Basle (hereinafter called Helvetia). The investment of the pension fund assets is performed by the Board of foundation on the basis of the provisions of the LOB. The longevity risk (including the risk of death following retirement) is borne by the Foundation itself.

For the following more extensive benefits, the Foundation's obligation to pay for benefits shall not exceed that of the Helvetia, if gaps in the cover shall be attributable to behaviour in breach of the contract - namely to the employer's undue delay in payment - and these gaps in cover shall not be covered by the pension fund assets:

- Benefits refused by the security fund on the grounds of an abuse;
- Benefits based on parts of the salary that are above the maximum applicable to the security fund, for persons who hold managerial functions or who are jointly responsible for outstanding contributions.

The pension fund assets are made up of the pension fund assets actually existing (including insurance of contractual benefits from the Helvetia resp. Foundation benefits) as well as any possible dividends in bankruptcy or proceeds from the realization of pledges, and any possible payments from the security fund.

#### 1.3.2

The Foundation is the policyholder of the collective life insurance agreement. As such, it shall be entitled to all rights accruing to it under the said agreement.

### 1.4 Legal relations

#### 1.4.1

The relationship between the beneficiaries and the Foundation, the requirements for entitlement and the insurance benefits shall be determined exclusively by the existing pension fund regulations.

#### 1.4.2

The relationship between the associated company and the Foundation is defined in the contract of association.

## 2 Insured Persons

### 2.1 Principle

#### 2.1.1

Those employees defined in the benefit plan are admitted to the employee benefit scheme. The terms "employees" and "insured persons" refer to persons of both genders unless the contrary is expressly laid down.

#### 2.1.2

Admission to the pension fund shall take place on 1st January following the attainment of age 17; old-age credits will be levied on 1st January following the attainment of age 24, insofar as old-age credits have not already been determined before the attainment of age 24 in accordance with the benefit plan.

## **2.2 Exceptions**

### **2.2.1**

Persons who are partially disabled within the meaning of the Federal Law on Disability Insurance (LDI) at the time of the start of their employment or at the time of their inclusion in the benefit scheme shall be included in the benefit scheme provided that their expected OASI-liable annual salary exceeds provided that their expected annual salary subject to OASI contributions exceeds the minimum annual salary (= legal entrance threshold) specified by the Federal Council. The legal entrance threshold will then be reduced by the partial pension entitlement of the Federal Disability Insurance (DI) (e.g. where there is entitlement to a quarter pension under the DI, the legal entrance threshold will be reduced by 25 %). This reduced entrance threshold also applies mutatis mutandis during the provisional continued insurance pursuant to art. 26a LOB.

### **2.2.2**

Persons receiving a full DI pension and employees who have already reached the age of 65 (men) or 64 (women) (adjusted to the OASI in each case) shall not be included in the benefit scheme, as well as employees who are not subject to mandatory insurance due to provisional continued insurance (art. 26a LOB). Persons who are notified to the Foundation for insurance and who at the same time receive provisional continued insurance from another employee benefit institution must inform the Foundation of this and provide information about the relevant circumstances.

### **2.2.3**

Employees with a temporary contract of employment for a period of three months or less are not eligible for the pension fund, subject to para. 2.2.4. If an employment contract is extended beyond three months, the employee has to be insured from the date the extension was agreed.

### **2.2.4**

If several consecutive employment periods last longer than three months in total and if no interruption exceeds three months, the employee is insured from the beginning of the fourth (total) month of work. However, if it was agreed prior to initially starting employment that the length of employment or deployment would last longer than three months in total, the employee is insured from the beginning of employment.

## **2.3 Voluntary admittance**

### **2.3.1**

A self-employed person may be insured voluntarily in the occupational benefit scheme, if the same prerequisites as for an employee are fulfilled (art. 44 para. 1 LOB). He is governed by the same conditions as an employee.

### **2.3.2**

The voluntary insurance of supplementary benefits for an employee in the service of several employers (art. 46 LOB) is not permitted.

## **2.4 Unpaid leave**

### **2.4.1**

Unpaid leave is leave that is requested by the insured person on a voluntary basis and is typically a single period of time out from work, during which the employment relationship remains in force and no other regular gainful activity is pursued.

### **2.4.2**

Unpaid leave of less than one month in duration does not have to be notified. The occupational benefits insurance is continued in full in accordance with the provisions of the regulations.

### **2.4.3**

Unpaid leave of more than one month in duration must be reported to the Foundation prior to the commencement of such leave by means of the "Notification of unpaid leave" form.

### **2.4.4**

In the case of unpaid leave of between one and six months, with the agreement of the employer, the insured person is able to choose from one of the following options for the duration of the unpaid leave.

In every case of unpaid leave of more than six months, the insured person must leave the occupational benefits insurance on the date when unpaid leave commences and the insurance cover lapses upon expiration of the extended cover.

### **2.4.5**

#### **Option 1**

#### **Continuation of pension benefits**

The insurance is continued in full for the duration of the unpaid leave. The provisions of the valid pension fund regulations apply (see para. 37.1.1).

#### **Option 2**

#### **Interim risk insurance**

Within the scope of the interim risk insurance, the risk benefits upon death and disability, including the waiver of contributions in the event of incapacity for work and/or earning disability continue to be insured for the duration of the unpaid leave pursuant to the valid pension fund regulations (see para. 37.1.1). The savings process is suspended for the duration of the unpaid leave.

The insured salary equals the insured salary prior to the unpaid leave.

The waiting period for the disability pension and the disabled's children's pensions amounts to three months. The accident coverage is determined by the provisions of the regulations.

For the period of unpaid leave, the contribution payment is reduced by the contributions to the old-age credits.

### **Option 3**

#### **Suspension of the occupational benefits insurance**

There is no desire to continue the occupational benefits insurance for the duration of the unpaid leave. The insurance is suspended and no contributions are due. The insurance cover relates to the annual salary still earned, provided this lies above the legal entrance threshold, and is limited to the statutory minimum benefits. In the case of a reduced annual salary which lies below the legal entrance threshold, the insurance will lapse upon commencement of the unpaid leave and following expiration of the extended cover. The entitlement to the termination benefit and/or the restitution of contributions remains guaranteed.

#### **2.4.6**

The financing of the contributions and premiums for options 1 and 2 is generally determined by the provisions of the regulations; however, the employer and employee are free to come to a different arrangement regarding financing. The employer remains liable for the premiums vis-à-vis the Foundation regardless of the financing arrangements.

## **3 Commencement and Cessation of the Obligation to Insure**

### **3.1 Principle**

#### **3.1.1**

The obligation to insure begins as a rule, with the commencement of employment. It ends when a retirement benefit falls due, on termination of employment or when the insured person no longer meets the legal provisions of the LOB or the conditions of admission pursuant to para. 2. On termination of employment or if the conditions of admission cease to apply, the provisions of paras. 21 and 22 shall apply.

#### **3.1.2**

Upon withdrawal from compulsory insurance, the benefit scheme can be continued under the state substitute scheme. However, continuation under the Foundation shall not be possible (art. 47 para. 1 LOB). In order to avoid an interruption in cover, immediate registration with the state substitute scheme is necessary.

## **4 Benefit Coverage, Health Examination**

### **4.1 Principle**

#### **4.1.1**

The minimum benefits in accordance with LOB shall be granted without reservation. Pension fund benefits exceeding the compulsory amount which lie within the limits fixed by the Foundation shall be granted without reservation, in so far as the person to be admitted shall be completely fit for work and capable of gainful employment when commencing the employment and at the time of admission to the pension fund.

### **4.2 Health Examination**

#### **4.2.1**

The Foundation shall have the right to request a health examination for persons

- who are not fully able to work or capable of gainful employment when the contract of employment begins or on admission to the pension fund, or
- whose pension benefits in excess of the compulsory requirements exceed the limits stipulated by the Foundation.

#### **4.2.2**

The Foundation shall decide on the proof of health required. If the acceptance conditions require a risk assessment, the person to be insured shall answer the questions put by the Foundation about his state of health fully and accurately. The Foundation shall be entitled to demand a medical examination at its own expense. The benefit coverage shall only be issued definitively, if necessary with specific restrictions and surcharges, following a corresponding written notification from the Foundation. If a person to be insured refuses to undergo a medical examination, rejects a restriction or a surcharge or does not respond within the deadline set by Helvetia following receipt of the corresponding notification, the benefit coverage shall expire for benefits exceeding the LOB. If the risk assessment takes more than three months to complete for reasons for which the insured person is responsible, the provisional cover shall, upon expiry of that three-month period, be limited to the statutory minimum benefits in accordance with the LOB.

### **4.3 Increase in benefits**

#### **4.3.1**

An increase in benefits may be made dependent on a health examination. Para. 4.2 shall be applicable.

#### **4.3.2**

No health examination is required, however, if the insured salary and the benefits are within the limits of the LOB.

### 4.3.3

Persons suffering from incapacity for work or disability shall as a matter of principle not be entitled to increase the benefits. The LOB minimum benefits are guaranteed.

## 4.4 Benefit Reservation

### 4.4.1

Insured persons who become unable to work or disabled as a result of a restricted condition within a period of reservation of five years shall be entitled only to the statutory benefits (see, inter alia, Arts. 23 and 24 LOB, art. 14 LVOB) for the entire duration of their claim to benefits. The restitution of contributions (para. 15) remains guaranteed.

## 4.5 Cover limitation

### 4.5.1

There is no entitlement to survivors' benefits before retirement or to disability benefits, if the incapacity for work the cause of which leads to disability or death already occurred before entering into employment or before being admitted into the benefit scheme.

### 4.5.2

In the case of an insured person with a congenital defect or who became disabled while still a minor, the entitlement to benefits and the amount of the survivors' and disability benefits shall be determined solely by the statutory provisions (art. 23 lit. b and c and art. 24 LOB).

## 5 Anniversary Date, Age Determinant, Retirement Age, Retirement

### 5.1 Anniversary Date

#### 5.1.1

1st January of each year is considered to be the anniversary date. Adjustments of salary, benefits, contributions and premiums are effected on this date.

### 5.2 Age Determinant

#### 5.2.1

The age determinant for the calculation of an insured person's old-age credits is the difference between the current calendar year and the year of birth.

### 5.3 Retirement Age

#### 5.3.1

The reglementary retirement age means the first day of the month following the attainment of the age determined in the benefit plan.

## 5.4 Retirement

### 5.4.1

Ordinary retirement shall take place at the retirement age. The insured person has the possibility of taking early retirement at the earliest from the attainment of age 58. The Foundation reserves the right to revoke retirement if the insured person continues or resumes gainful employment. Any amendments of legislation and regulations shall remain reserved.

### 5.4.2

The term retirement in these pension fund regulations shall always be understood to cover ordinary retirement, early retirement and deferred retirement.

## 5.5 Semi-retirement

### 5.5.1

Semi-retirement is possible from the earliest possible retirement age according to the regulations. The procedures are as follows:

- a maximum of three retirement steps are possible, whereby the third step is always full retirement. It is not possible to raise the number of working hours at a later date.
- each step must equal at least 25 %. There must be a period of at least one year between two retirement steps.
- semi-retirement must be accompanied by a corresponding reduction in the number of working hours and the basic salary.
- the insured salary is determined according to the provisions in the benefit plan.

### 5.5.2

The Foundation reserves the right to conform the regulations to the legal and tax provisions. It is not responsible for the tax treatment of individual cases.

## 5.6 Continued insurance after reaching the statutory LOB retirement age

### 5.6.1

For insured persons fully capable of gainful employment who continue their gainful employment with the employer in whole or in part on reaching the statutory LOB retirement age, the benefit scheme may be continued within the scope of the following provisions.

### 5.6.2

The retirement age for the benefit scheme shall be raised to 70 (men and women) and the savings process continued. The due date for retirement benefits shall be postponed until the termination of employment, but no later than the insured person's 70th birthday, and the conversion rate for the retirement pension shall be increased accordingly. The provisions concerning partial retirement remain reserved.

The use of pension assets for the financing of residential property (para. 25) is no longer possible.

Benefits may still be purchased, but they are limited to the purchasing potential that was available upon reaching normal retirement age pursuant to the regulations and reduced by the old-age credits, contributions and interest paid during the period of continued insurance.

### **5.6.3**

If the insured person dies after reaching the LOB retirement age, the following survivor's benefits are insured:

- A spouse's pension amounting to 60 percent of the assumed retirement pension at age 70
- A partner's pension amounting to 60 percent of the assumed retirement pension at age 70
- An orphan's pension amounting to 20 percent of the assumed retirement pension at age 70.

The transitional arrangement pursuant to para. 5.6.7 remains reserved.

The restitution of contributions is guaranteed. Para. 15 applies.

The insurance of the remaining risk benefits (disability pensions, disabled's children's pensions and waiver of contributions, adjustment to the price index, any additional death benefits) shall expire once the LOB retirement age has been reached.

### **5.6.4**

The continued insurance ends when the insured person retires and, in any case, on the last day of the third month if the partial or full incapacity for work exceeds three months. In the cases given, the benefits provided for in the regulations on retirement will be paid upon retirement.

### **5.6.5**

The financing of the age credits and the other contributions and premiums shall comply with the provisions of the regulations. The amount of the old-age credits shall comply with the savings level applicable until the ordinary retirement age. The contributions and premiums remain due, even after the occurrence of the incapacity for work, until the end of the continued insurance. The contributions and premiums are reduced by the costs for the benefits that are no longer insured.

### **5.6.6**

The Foundation accepts no responsibility for the tax deductibility of contributions or premiums.

### **5.6.7**

For insured persons whose period of continued insurance has already commenced before 1<sup>st</sup> January 2016, the scope of insurance shall remain unchanged, i.e. the regulations that were in place at the start of that period shall apply.

## **6 Salary definitions**

### **6.1 Basic salary**

#### **6.1.1**

Basic salary is considered to be the assumed OASI annual salary on which contributions are due (including bonuses promised in advance and other regular additional payments). Fluctuating parts of the salary in the supplementary insurance may not exceed 30 % of the fixed salary.

#### **6.1.2**

If a person is employed for less than a complete year by the same company, the salary that would have been earned during a full year's employment shall be considered to be the annual basic salary.

### **6.2 LOB salary**

#### **6.2.1**

The LOB salary corresponds to the part of the basic salary between 7/8 of the maximum simple OASI retirement pension and three times the maximum simple OASI retirement pension. If the LOB salary is less than one eighth of the maximum simple OASI old-age pension, it shall be rounded up to this amount.

#### **6.2.2**

For persons who are partially disabled within the meaning of the LDI, the limits defined in para. 6.2.1 shall be reduced in accordance with the part-pension entitlement under the DI. The minimum amount shall, however, remain applicable. This reduction also applies mutatis mutandis during the provisional continued insurance pursuant to art. 26a LOB.

#### **6.2.3**

The fixed salary limits are determined by Federal legislation and shall be adapted to it, without any amendment to the regulations being made.

### **6.3 LAI Salary**

#### **6.3.1**

The LAI salary corresponds to the basic salary, limited to the maximum insured salary in accordance with the Federal Law on Accident Insurance (LAI).

### **6.4 Insured Salary**

#### **6.4.1**

Insured salary is considered to be the salary specified in the benefit plan.

#### **6.4.2**

For persons who are partially disabled within the meaning of the LDI or who receive provisional continued insurance pursuant to art. 26a LOB, para. 6.2.2 shall apply mutatis mutandis.

### **6.5 Salary limitation**

#### **6.5.1**

The Foundation sets a maximum limit for the insured salary. Account shall be taken of the statutory provisions (art. 79c LOB). If the insured person has more than one benefit arrangement and if the total of all OASI-liable salaries and income exceeds ten times the upper limit pursuant to art. 8 para. 1 LOB, he must inform each of his employee benefit institutions about the totality of his benefit arrangements and the salaries and incomes insured thereby.

### **6.6 Salary Adjustments**

#### **6.6.1**

Adjustments to insured salary are, as a rule, effected on the anniversary date. In exceptional cases where a substantial change arises, the insured salary may be adjusted during the insurance year subject to the agreement of the employer, the insured person and the Foundation. This paragraph is subject to the provisions of para. 4.3.

#### **6.6.2**

In the event of a temporary reduction in salary as a result of illness, accident, unemployment, maternity or similar grounds, the insured salary shall remain unchanged for the periods during which the employer would be obliged by law to continue the salary payments or the period of maternity leave pursuant to art. 329f of the Code of Obligations. However, the insured salary shall be reduced at the insured person's request.

#### **6.6.3**

In the event of incapacity for work or earning disability, the insured salary shall remain in principle unchanged. This shall be subject to an adjustment of salary according to the remaining earning capacity, in so far as the degree exceeds 30 %.

## **7 Old-age savings**

### **7.1 Old-age savings at the end of the current year**

#### **7.1.1**

The old-age savings of an insured person at the end of the current year consist of:

- the old-age credits stipulated in these pension fund regulations until the end of the previous year plus interest till the end of the current year;

- the insured person's termination benefit and single premiums credited, including interest till the end of the current year;
- the old-age credits, without interest, for the current year.

### **7.2 Old-age savings upon occurrence of an insured event or on withdrawal**

#### **7.2.1**

The old-age savings for an insured person are made up as follows upon occurrence of an insured event and withdrawal from the employee benefit institution:

- of the old-age savings as at the end of the preceding year with interest paid on it pro rata temporis until the occurrence of the insured event or until the date of withdrawal;
- the old-age credits, without interest, for the current year pro rata temporis up to the occurrence of the insured event giving rise to the benefit claim or up to the date of withdrawal, as the case may be;
- the termination benefits credited to the insured person, together with single premiums, plus interest up to the occurrence of the insured event giving rise to the benefit claim or up to the date of withdrawal, as the case may be.

#### **7.2.2**

For the calculation of any risk benefits dependent on the projected LOB old-age savings the old-age savings to be taken into account in an insured event are limited to the minimum old-age savings pursuant to the LOB at the end of the current year and the sum of the prescribed LOB old-age credits for the missing years until retirement age without interest.

### **7.3 Interest payment on the old-age savings**

#### **7.3.1**

Interest is paid on the minimum old-age savings in accordance with the LOB and at least at the rate fixed by the Federal Council. An interest rate fixed by the Board of foundation applies to the payment of interest on the compulsory and the supplementary amount of the old-age savings. The interest rates applicable at the time being shall be notified in appropriate form. The interest rate can only be higher than the legal minimum interest rate if it can be proved that the retirement capital is covered and there are sufficient reserves.

### **7.4 Projected old-age savings without interest**

#### **7.4.1**

The projected old-age savings without interest are determined by the old-age savings at the end of the current year and the sum of the old-age credits without interest for the years until retirement age.

## **7.5 Projected old-age savings with interest**

### **7.5.1**

The projected old-age savings with interest are determined by the old-age savings at the end of the current year, including interest until retirement age, and the sum of the old-age credits, including interest, for the years until retirement age.

### **7.5.2**

The interest rate for the calculation of the projected old-age savings with interest does not have to be identical with the interest rates pursuant to para. 7.3.1 and will be notified in appropriate form.

## **7.6 Partial withdrawals of old-age savings**

### **7.6.1**

Partial withdrawals of old-age savings (partial capital withdrawal in the event of retirement, premature withdrawal for residential property or transfer of assets in the event of divorce) shall as far as possible be taken proportionally from the minimum retirement savings according to LOB and the supplementary old-age savings. In the event of divorce, this shall remain subject to orders to the contrary in the divorce decree.

## **8 Conversion rates**

### **8.1 Conversion rate for risk benefits**

#### **8.1.1**

The conversion rates specified in art. 14 para. 2 LOB and laid down by the Federal Council shall determine the calculation of the risk benefits dependent on the projected old-age savings. Any adjustment of these conversion rates by the Federal Council or the legislature shall result in a corresponding adjustment of the reversionary benefits.

### **8.2 Conversion rate for retirement pensions**

#### **8.2.1**

The conversion rate determined by the Federal Council or legislature shall be applicable for the conversion of the compulsory old-age savings. For the supplementary old-age savings, a conversion rate determined by the Board of foundation shall apply.

#### **8.2.2**

The valid conversion rates shall be notified in appropriate form.

# Benefits

## 9 Summary of Benefits

### 9.1 Retirement benefits

#### 9.1.1

Upon retirement of an insured person the Foundation shall provide the following benefits:

- retirement pension payable for life (para. 10)
- pensioner's children's pensions (para. 11).

### 9.2 Survivors' benefits

#### 9.2.1

On the death of an insured person the Foundation shall provide the following benefits within the scope of entitlement:

- spouse's Pension, registered partner's pension (para. 12)
- partner's Pension (non-registered partnerships) (para. 13)
- orphans' Pensions (para. 14)
- restitution of Contributions (para. 15)
- lump sum death benefit (para. 16).

### 9.3 Benefits on earning disability

#### 9.3.1

If an insured person becomes fully or partially unable to work or disabled the Foundation shall provide the following benefits:

- disability pension (para. 18)
- disabled's children's pensions (para. 19)
- waiver of contributions (para. 20).

### 9.4 Termination Benefit

#### 9.4.1

In the case of the termination of the employment, the Foundation shall provide a termination benefit (para. 21).

## Retirement benefits

## 10 Retirement Pension

### 10.1 Principle

#### 10.1.1

If an insured person retires, he shall be entitled to a retirement pension payable for life.

## 10.2 Amount and duration of the pension entitlement

### 10.2.1

The amount of the annual retirement pension shall be determined on the basis of the old-age savings existing at the time of retirement. The conversion rates valid at the time of retirement shall be applicable for the calculation.

### 10.2.2

If at the time he reaches the age limit an insured person is receiving a disability pension from the Foundation and if the statutory disability pension is greater than the statutory retirement pension, the retirement pension shall be increased by this difference.

## 10.3 Retirement capital

### 10.3.1

The insured person can request the payment of the retirement benefit in capital form instead of a retirement pension. The capital withdrawal is restricted to the old-age savings that correspond to the degree of disability. The degree of disability at the time of submitting the capital option is decisive. A written request should be submitted to the Foundation before the payment of the first retirement pension. If an insured person is married or living in a registered partnership, payment of the retirement capital is permitted only if the spouse or registered partner agrees in writing. If the insured person is unable to produce the written consent of the spouse or registered partner or if the spouse or registered partner refuses, he or she may appeal to the civil court.

The Foundation is not obliged to pay interest on the retirement capital for as long as the insured person is unable to produce written consent.

### 10.3.2

On the payment of a retirement capital, all entitlements to any possible benefits, in particular survivors' pensions and pensioners' children's pensions, shall lapse on a pro rata basis. In the event of the occurrence of a partial liquidation situation (Appendix IV of the pension fund regulations), the insured person will no longer be considered with regard to distribution of free assets to the extent of the retirement benefit withdrawn as retirement capital.

### 10.3.3

A partial lump sum benefit shall also be possible, subject to the actuarial and statutory regulations.

### 10.3.4

Otherwise, the provisions on the capital payment prohibition pursuant to para. 29.3.11 apply.

## 11 Pensioner's Children's Pensions

### 11.1 Principle

#### 11.1.1

An insured person who is entitled to a retirement pension is also entitled to a pensioner's children's pension for each child who, in the event of the insured person's death, would have received an orphans' pension.

### 11.2 Amount and duration of the pension entitlement

#### 11.2.1

The annual amount of pension per child is equal to 20 % of the retirement pension in payment.

#### 11.2.2

If a current disabled's children's pension is replaced by a pensioner's children's pension, the latter shall amount to at least the previous disabled's children's pension.

#### 11.2.3

The provisions regarding the orphan's pension (para. 14.2.3 ff.) shall apply mutatis mutandis.

### Survivors' benefits

## 12 Spouse's Pension, registered partner's pension

### 12.1 Principle

#### 12.1.1

Upon the death of an insured person, the surviving spouse shall be entitled to a pension. The entitlement shall be irrespective of the spouse's age, the duration of the marriage and the number of children.

#### 12.1.2

A partnership registered with the civil registry office (Federal Law on the Registration of Partnerships for Same-Sex Couples) is treated as equivalent to a marriage. The registration of the partnership with the civil registry is deemed to be the same as a marriage. The termination of the registered partnership by a court ruling is treated in the same way as a divorce (see para. 12.6.1, 21.5). On the death of a registered partner, the surviving registered partner is treated in the same way as a widowed person.

In these regulations, the terms spouse, widow and widower must always be understood to include registered partners, even if they are not specifically mentioned. Terms such as marriage, subsequent marriage, marry, remarriage etc. likewise apply to registered partnerships. The term registered partner denotes Same-Sex partners of both genders.

### 12.2 Amount of the pension

#### 12.2.1

If an insured person dies before retirement a spouse's pension shall be payable as specified in the benefit plan.

#### 12.2.2

If an insured person dies after retirement, the spouse's pension shall amount to 60 % of the retirement pension drawn by the insured person.

### 12.3 Remarriage

#### 12.3.1

If the spouse remarries before reaching the age of 45, the entitlement to the spouse's pension shall expire. It shall be replaced by an entitlement to a capital settlement to the amount of the pension payable for three years.

#### 12.3.2

If the spouse remarries after reaching the age of 45, the spouse's pension shall be paid for the remainder of his or her life.

### 12.4 Reduction rules

#### 12.4.1

If at the time when the entitlement to a spouse's pension arises the spouse is more than ten years younger than the insured person, the pension shall be reduced by 1 % of the total spouse's pension for each year or part thereof exceeding the ten-year difference.

#### 12.4.2

If the insured person marries after reaching the age of 65, the spouse's pension shall be reduced to the following percentages:

Marriage at age 66	80 %
Marriage at age 67	60 %
Marriage at age 68	40 %
Marriage at age 69	20 %

#### 12.4.3

Entitlement to a spouse's pension shall not arise if the marriage is concluded after the insured person reaches the age of 69.

#### 12.4.4

If the insured person marries after reaching the age of 65 and if at this time he is suffering from a serious illness that ought to be known to him, no spouse's pension will be paid if the insured person dies of this illness within two years after conclusion of the marriage.

#### **12.4.5**

The reduction rules shall be applied cumulatively if a number of facts justifying reduction apply in the specific case.

If the surviving spouse would have been entitled to a partner's pension without entering into marriage, that spouse shall receive a spouse's pension that is at least equivalent to said partner's pension.

#### **12.4.6**

If the spouse's pension according to the regulations is reduced or ceases entirely to apply pursuant to the above provisions, there shall be at least an entitlement to the statutory spouse's pension subject to the condition that the spouse

- is responsible for the maintenance of one or more children
- has attained age 45 and the marriage lasted at least 5 years.

If the spouse does not satisfy any of these conditions, he shall receive a settlement to the amount of three minimum spouse's pensions pursuant to the LOB in lieu of the pension.

### **12.5 Capital Settlement**

#### **12.5.1**

The spouse can request a capital settlement in lieu of the pension. A corresponding declaration shall be issued before the payment of the first pension. The amount of the capital settlement shall be calculated according to actuarial principles.

#### **12.5.2**

For a spouse who has not reached the age of 45 at the time of the death of the insured person, the calculated value of the capital settlement shall be reduced by 3 % for each year or part thereof by which the spouse is younger than 45. However, the capital settlement value shall be a minimum of four annual pensions.

### **12.6 Entitlement of the divorced spouse**

#### **12.6.1**

An insured person's divorced spouse has the same rights as a spouse on the death of the insured person provided he/she was married to the insured person for at least ten years and provided he/she was awarded a pension in accordance with art. 124e (1) or 126 (1) of the Swiss Civil Code (CC) in the divorce settlement. The entitlement exists as long as the pension would have been payable. The above provisions apply *mutatis mutandis*. Any pension shall be reduced additionally by the amount by which it, together with other social insurance benefits, exceeds the entitlement stated in the divorce decree.

## **13 Partner's Pension (non-registered partnerships)**

### **13.1 Principle**

#### **13.1.1**

Upon the death of the insured person, the surviving partner is entitled to a pension if the following conditions for entitlement are satisfied.

### **13.2 Amount of the pension**

#### **13.2.1**

If an insured person dies before retirement a partner's pension shall be payable as specified in the benefit plan.

#### **13.2.2**

If an insured person dies after retirement, the partner's pension shall amount to 60 % of the retirement pension drawn by the insured person.

### **13.3 Requirements for Entitlement**

#### **13.3.1**

The surviving partner (of different or the same sex) of an insured person shall be entitled to a partner's pension as specified in the benefit plan if the insured person dies, if the insured person was not receiving a full disability pension on 31.12.2004 and if all the following conditions are satisfied.

#### **13.3.2**

The partner shall be required to prove that he had lived without interruption in partnership with the deceased in a common household for at least the last five years before the death of the insured person, or must prove that he was living in partnership with the deceased in a joint household at the time of the death of the insured person and that the surviving partner must provide for at least one mutual child.

#### **13.3.3**

Neither partner shall be married or in a registered or other partnership at the time of the death of the insured person.

#### **13.3.4**

The partners shall not be related within the meaning of art. 95 of the Swiss Civil Code.

#### **13.3.5**

The surviving partner does not receive a spouse's or partner's pension from a preceding marriage or partnership and also has not drawn a capital benefit instead of such a pension.

### **13.3.6**

The "Registration for a partner's pension" form has been completed in full and signed by both partners before the death and before the full retirement of the insured person and sent to the Foundation or to Helvetia. In justified exceptions, the Foundation can waive the filing of the registration form.

### **13.3.7**

The documents requested for the examination of the claim by the Foundation shall be provided by the surviving partner.

### **13.3.8**

The provisions concerning the spouse's pension shall apply mutatis mutandis. In particular, the reduction rules for spouse's pensions shall be applicable to the partner's pension. For the application of the reduction provisions according to para. 12, the duration of the partnership shall be equivalent to the duration of the marriage.

## **14 Orphans' Pensions**

### **14.1 Principle**

#### **14.1.1**

Upon the death of an insured person, every child is entitled to an orphan's pension. If the benefit plan also makes provision for a full orphan's pension, full orphans are paid a supplementary pension in addition to the orphan's pension. Full orphans are the insured person's children who are eligible for a pension if the insured person dies and the second parent is already dead or if the surviving parent dies.

### **14.2 Amount and duration of the pension entitlement**

#### **14.2.1**

If an insured person dies before retirement an orphans' pension or full orphan's pension becomes payable as specified in the benefit plan.

#### **14.2.2**

If an insured person dies after retirement, the annual orphans' pension shall amount to 20 % of the retirement pension drawn by the insured person.

#### **14.2.3**

The orphans' pension shall be payable until the child attains age 18. Children undergoing vocational training shall be entitled until completion of the same, however, at the latest until age 25.

#### **14.2.4**

The full pension shall be paid for the month during which the child attains the age limit.

## **14.3 Disabled children**

### **14.3.1**

For as long as they themselves are disabled, children shall be entitled to an orphans' pension beyond the age of 18, provided that such earning disability already existed before age 25 and they are not in receipt of a disability pension from the LOB, Accident or Military Insurances. On attainment of age 18, the amount of the pension shall be determined according to the degree of earning disability.

## **14.4 Step-children and foster children**

### **14.4.1**

Step-children are entitled to an orphans' pension if the insured person was entirely or mainly responsible for their maintenance. Foster children are also entitled to an orphans' pension if the insured person had the children permanently in care, without payment, and was responsible for their upbringing.

## **14.5 Replacement of pensions in payment**

### **14.5.1**

If a current disabled's children's pension or pensioner's children's pension is replaced by an orphans' pension, the orphans' pension shall correspond to at least the previous child's pension.

## **15 Restitution of Contributions**

### **15.1 Principle**

#### **15.1.1**

If an insured person dies before retirement and there is no entitlement to a spouse's pension, a pension to the divorced spouse or a partner's pension, the accumulated old-age savings up to the time of death shall be paid out as a lump sum.

#### **15.1.2**

If an insured person dies before retirement and there is an entitlement to a spouse's pension, a pension to the divorced spouse or a partner's pension, a lump sum shall be payable provided that the accumulated old-age savings exceed the cash value or the settlement value, as the case may be, of the benefits payable to the spouse, divorced spouse or partner. The lump sum shall correspond to the difference between the accumulated old-age savings up to the time of death and the cash value or the settlement value, as the case may be.

## 16 Lump Sum Death Benefit

### 16.1 Principle

#### 16.1.1

If the benefit plan provides for a lump sum death benefit, said benefit shall be paid out on the following conditions should the insured person die before retirement:

- the insured person belongs to that group of persons for whom a lump sum death benefit is insured pursuant to the benefit plan and
- the Foundation has been notified of this person's status as a beneficiary before occurrence of the insured event.

Married persons as well as persons with children entitled to maintenance shall be regarded as being liable to pay maintenance. Persons who fulfil support obligations towards relatives in accordance with art. 328 of the Civil Code shall be regarded as being liable to pay support.

Any "lump sum death benefit for married persons" is insured for married persons and for persons with a life partner who is entitled to a partner's pension pursuant to para. 13.

Any "lump sum death benefit for unmarried persons" is insured for unmarried persons, with the exception of those whose partner is entitled to a partner's pension in accordance with para. 13.

The order of beneficiaries set out in para. 17 hereinafter is decisive for determining the individual claims of beneficiaries.

## 17 Beneficiary clause

### 17.1 Principle

#### 17.1.1

The surviving dependants shall be entitled to the lump sum death benefit or restitution of contributions, as the case may be, independent of the provisions of the law on inheritance in the following order of priority:

- a) the spouses, registered partners and orphans entitled to benefit under the regulations,

natural persons who were substantially provided for by the deceased, the person who was in a partnership with the deceased without interruption during the last five years up to the deceased's death and the person who must provide for the maintenance of one or more mutual children,

in equal parts between all the persons entitled to benefit;

- b) If there are no beneficiaries pursuant to lit. a): the children of the deceased who do not meet the conditions for entitlement under para. 14; the parents or siblings, on the basis of the statutory division rules under inheritance law;

- c) If there are no beneficiaries pursuant to lit. a) and b): the other legal heirs, to the exclusion of the community, on the basis of the statutory division rules under inheritance law for 50 % of the accrued old-age savings.

There shall be no entitlement to survivors' benefits pursuant to lit. a), para. 2 of this provision if the beneficiary draws a spouse's or partner's pension from a previous marriage or partnership. There is no entitlement for the divorced spouse.

#### 17.1.2

Any portions of the lump-sum death benefit or restitution of contributions that cannot be paid out due to the absence of a beneficiary shall be credited to the free pension fund assets (para. 31.1).

#### 17.1.3

Any claims to the lump-sum death benefit or restitution of contributions must be made to the Foundation within two months of the insured person's death.

## 17.2 Amendment of the order of beneficiaries

### 17.2.1

The insured person can specify the entitlements of the beneficiaries in a written declaration. Where special circumstances exist, the said declaration may also depart from the order of beneficiaries and priority of entitlement, provided this achieves a better distribution according to the object of the pension fund. An appropriate declaration must be given to the Foundation. Persons outside the group described in para. 17.1.1 cannot be beneficiaries.

### 17.2.2

If no such declaration has been filed, the distribution shall be made in accordance with the order of beneficiaries given in para. 17.1.1.

## Benefits on earning disability

## 18 Disability Pension

### 18.1 Principle

#### 18.1.1

If an insured person becomes disabled before retirement, an entitlement to a disability pension exists within the scope of the following conditions (see also para. 28.1).

## **18.2 Amount and duration of the pension entitlement**

### **18.2.1**

The amount of the disability pension is specified in the benefit plan.

### **18.2.2**

The entitlement to the payment of a disability pension ceases upon the insured person's death, upon the attainment of reglementary retirement age conform to the regulations or, subject to para. 18.2.4, when the degree of disability is determined as less than 40 %.

### **18.2.3**

The insured person shall be entitled to:

- a) a full disability pension if he is at least 70 % disabled within the meaning of the DI;
- b) a three-quarter pension if he is at least 60 % disabled;
- c) half a pension, if he is at least 50 % disabled;
- d) a quarter pension if he is at least 40 % disabled.

Where disability within the meaning of the DI occurs before 1.1.2007: see transitional provisions, para. 36.2.

### **18.2.4**

If the pension from the Disability Insurance of an insured person with an entitlement to a disability pension from the Foundation is reduced or discontinued due to a reduction in the level of disability, the insured person will continue to be insured at the same conditions for three years, provided they had taken part in measures for reintegration in the workforce pursuant to art. 8a LDI prior to the reduction or discontinuation of the pension or if the pension was reduced or discontinued due to the resumption of gainful activity or an increase in the degree of occupation.

The insurance cover and the entitlement to benefits remain in force for as long as the insured person receives an interim benefit pursuant to art. 32 LDI.

During the period of continued insurance, the pension will be reduced in accordance with the lower level of disability if the reduction is compensated by an additional income of the insured person.

## **18.3 Definition of earning disability**

### **18.3.1**

As a matter of principle, the Foundation shall recognise earning disability determined by the DI.

## **18.4 Degree of earning disability**

### **18.4.1**

For the determination of the degree of earning disability, the earned income which the insured person could obtain through work acceptable to him/her in an equable labour market situation after the occurrence of the earning disability and after the implementation of any possible integration measures by the DI, in relation to the earned income which he/she could have achieved if he/she had not become disabled. In principle, the Foundation shall accept the degree of disability fixed by the Swiss Federal Disability Insurance.

## **18.5 Onset of the pension entitlement and waiting period**

### **18.5.1**

The entitlement to the payment of the minimum disability pension under the LOB shall come into being simultaneously with the entitlement under the federal Disability Insurance; the entitlement to payment of a disability pension in excess of the statutory requirements, after the expiry of the waiting period stipulated in the benefit plan.

All entitlement to pension is postponed, however, while the insured person draws a daily allowance equal to at least 80 % of the salary from a health or accident insurer. The employer must contribute at least half of the contributions for the daily sickness benefits insurance.

### **18.5.2**

The renewed occurrence of incapacity for work or earning disability for the same reason (relapse), subject to para. 18.2.4, shall be regarded as a new event with a new waiting period, if the insured person shall have been completely fit for work and capable of gainful employment uninterruptedly for more than one year before the relapse. For relapses within one year, which do not trigger off a new waiting period, the benefit adjustments made in the interim period will be cancelled.

## **19 Disabled's Children's Pensions**

### **19.1 Principle**

#### **19.1.1**

Recipients of a disability pension may claim disabled's children's pensions for those children who, in the event of the death of an insured person, would be entitled to an orphans' pension.

## **19.2 Amount and duration of the pension entitlement**

### **19.2.1**

The amount of the disabled's children's pension is specified in the benefit plan.

### **19.2.2**

The provisions stated for disability pensions (para. 18.1 - 18.5) and for orphans' pensions (para. 14) are applicable by analogy.

## **20 Waiver of Contributions**

### **20.1 Commencement, scope and duration of the entitlement**

#### **20.1.1**

If an insured person is at least 40% unable to work for longer than the waiting period determined in the benefit plan without interruption before retirement, the obligation to pay contributions after expiration of this waiting period shall cease in full or in part. The scope of the waiver of contributions is determined in accordance with para. 18.2.3, i.e. up to the time of the occurrence of the earning disability in accordance with the medically certified degree of the incapacity for work. During the duration of any provisional continued insurance (para. 18.2.4) the scope of the waiver of contributions remains as it was previously.

The risk benefits and the further accumulation of the old-age savings shall, however, be ensured.

If disability within the meaning of the DI occurs before 1.1.2007: see transitional provisions, para. 36.2.

#### **20.1.2**

In the event of a renewed occurrence of incapacity for work of the same cause, para. 18.5.2 shall be applicable accordingly.

#### **20.1.3**

The provisions of para. 18.5.1 and 27.3.1 shall be applicable accordingly.

## **Termination benefit and divorce, follow-up cover, refund and offsetting**

## **21 Termination benefit and divorce**

### **21.1 Principle**

#### **21.1.1**

The insured person shall be entitled to a termination benefit if the contract of employment is terminated before an insured event occurs or the conditions of admission are no longer met and the insured person leaves the employee benefit institution. An insured person who leaves an employee benefit institution at a time between the earliest possible leaving date and the ordinary retirement age under the regulations shall be entitled to a termination benefit only if he/she remains in employment or registers as unemployed. Otherwise the insured person will be considered to have retired and his/her retirement benefit will fall due. An insured person whose pension from the Disability Insurance is reduced or discontinued following a reduction in the level of disability is entitled to a termination benefit at the end of the provisional continued insurance (para. 18.2.4).

#### **21.1.2**

The termination benefit is calculated in accordance with art. 15 (defined contribution plan) of the Federal Law on Vesting in Occupational Old-age, Survivors' and Disability Benefit Plans (LVOB).

### **21.2 Amount of the termination benefit**

#### **21.2.1**

The termination benefit of an employee withdrawing from the employee benefit institution corresponds to the entire old-age savings financed by the employee and the employer up to the time he/she leaves the institution plus any surplus credit in accordance with para. 24. The statutory minimum benefit on termination of membership shall be guaranteed in accordance with art. 17 of the LVOB.

#### **21.2.2**

The old-age credits shall be financed separately from the risk premiums and the inflation and cost premiums, which are not taken into account for the calculation of the termination benefit.

#### **21.2.3**

The insured person shall contribute termination benefits from previous benefit arrangements to the Foundation.

## 21.3 Maintaining the benefit coverage

### 21.3.1

The termination benefit shall be transferred to the employee benefit institution of the new employer. Before the contract of employment terminates, the insured person is required to notify to the employee benefit institution the appropriate address for the transfer.

### 21.3.2

If the termination benefit is not to be transferred to the new employee benefit institution, the insured person shall inform the Foundation, as required by law, the manner in which the benefit coverage is to be maintained:

- vested benefit policy
- vested benefit account.

The vested benefit policy and the vested benefit account can, depending on the provider, be supplemented by an insurance for death and/or disability.

### 21.3.3

Recipients of daily allowances from the Unemployment Insurance are covered for the risks of death and disability under the compulsory occupational benefit scheme. The insurance of these risk benefits will be provided by the state substitute scheme. On request, the state substitute scheme may also continue the provision of benefits according to the LOB.

### 21.3.4

If the insured person does not submit the corresponding details to the Foundation within 30 days after termination of the employment, the termination benefit shall be transferred to the state substitute scheme at the earliest after six months (art. 4 para. 2 of the LVOB) and at the latest after two years.

## 21.4 Cash payment of the termination benefit

### 21.4.1

The termination benefit shall be paid out in cash if so requested:

- by a beneficiary who is leaving Switzerland permanently and does not assume a domicile in the Principality of Liechtenstein;
- by a beneficiary who is becoming self-employed and is no longer subject to the compulsory insurance requirements;
- by a beneficiary whose termination benefit is equal to less than the amount of his annual contributions.

### 21.4.2

Insured persons shall not be entitled to demand cash payment of the termination benefits within the compulsory limit if:

- they continue to be subject to compulsory insurance for the risks of old-age, death and disability pursuant to the legal regulations of a member state of the European Community;
- they continue to be subject to compulsory insurance for the risks of old-age, death and disability pursuant to Icelandic or Norwegian legal regulations;
- they are resident in Liechtenstein.

### 21.4.3

If the beneficiary is married eligible applicants living in a registered partnership, the payment in cash requires the written consent of the spouse or of the registered partner. If consent cannot be obtained or if it is refused without sound cause, the insured person can have recourse to the civil court.

## 21.5 Divorce

### Splitting of termination benefit

In divorce cases, the court can now decide that a part of the termination benefit the insured person has accrued during marriage is to be transferred to the ex-spouse's employment benefit institution.

In principle, the spouse's termination benefit that must be apportioned corresponds to the difference between the termination benefit when the application for divorce was filed and the termination benefit at the time of marriage (including accrued interest).

If, during the divorce proceedings, an insured event related to old age occurs for the spouse with the payment obligation, the Foundation may reduce the termination benefit in accordance with art. 123 or 124 (1) of the Swiss Civil Code and the retirement pension. Art. 19g OV applies to the reduction.

### Splitting of the retirement pension

If the spouse is drawing a retirement pension when the application for divorce is filed, the court may determine that part of this pension be transferred to the other spouse.

If the court decides to award the eligible spouse a life-long pension (divorce pension), the pension must be transferred to the ex-spouse's employment benefit institution, if possible. The spouse entitled to the pension may request a transfer to his or her employment benefit institution as a lump sum instead of a periodic pension transfer.

Instead of a pay-out of the divorce pension in accordance with art. 22e LVOB, the entitled spouse may request a capital settlement. He or she must submit a corresponding declaration prior to the first pension payment.

## **Statutory provisions**

Otherwise the corresponding statutory provisions apply.

## **22 Follow-up Cover, Refund and Offsetting**

### **22.1 Follow-up Cover**

#### **22.1.1**

The survivors' and disability benefits insured at the time of the termination of employment shall remain covered to the same amount after termination of the benefit arrangement up to the establishment of a new benefit arrangement, but for a maximum of one month, without a contribution being levied.

If the degree of disability shall increase after the insured person shall have withdrawn from the pension fund and after expiry of the said period, any increase in the disability benefits shall take place exclusively within the scope of the statutory minimum benefits.

### **22.2 Refund and Offsetting**

#### **22.2.1**

Where the Foundation has to pay out survivors' or disability benefits after the termination benefit has been transferred, the latter shall be refunded to the Foundation to the extent necessary for the financing of the survivors' or disability benefits. If no refund is made, these benefits may be reduced.

## **Further Benefits**

## **23 Adjustment to the Price Index**

### **23.1 Principle**

#### **23.1.1**

The statutory survivors' and disability benefits whose term has exceeded three years shall be adjusted to the price index at the beginning of the following calendar year following an order by the Federal Council.

#### **23.1.2**

The other pensions shall be adjusted to the price index within the limits of the pension fund's financial possibilities and in accordance with a ruling of the Board of Trustees. Provided that the pension fund has the corresponding funds at its disposal, a resolution is passed annually regarding whether and to what extent pensions are adapted.

## **23.2 Duration of the entitlement to adjustment**

### **23.2.1**

The spouse's and disability pensions shall be adjusted until the person entitled to claim reaches the ordinary OASI retirement age (art. 13 para. 1 LOB), orphans' and disabled's children's pensions shall be adjusted until they are terminated, while those for disabled children or children in training shall be adjusted until they reach the age of 25. Children's pensions to which entitlement continues beyond the age of 25 pursuant to para. 14.3.1 shall continue to be adjusted until the ordinary OASI retirement age (art. 13 para. 1 LOB).

## **24 Participation in Profits and distribution of earnings**

### **24.1 Profit participation from the collective life insurance contract with Helvetia**

#### **24.1.1**

The Foundation is entitled to the participation in profits granted from the collective life insurance contract with the Helvetia.

#### **24.1.2**

Profit shares are allocated to the Foundation in accordance with statutory provisions from a bonus reserve managed separately by Helvetia.

#### **24.1.3**

The share in profits shall in particular depend on the claims experience for the insured risks and the administrative expenditure incurred. The profit share is not guaranteed in advance, and may cease to be granted, in particular if in the previous year a loss was incurred in the collective life sector at Helvetia.

#### **24.1.4**

Profit shares are paid for the first time at the beginning of the second insurance year on the basis of the result of the previous year. If the employer fails to pay the contractually agreed contributions, the payment of the profit share to the pension fund in question can be suspended up to the amount of the outstanding premiums.

### **24.2 Distribution of earnings on the investment of the savings**

#### **24.2.1**

The Foundation distributes income in accordance with the earnings from the investment of the savings. If the employer fails to pay the contractually agreed contributions, the payment of income to the pension fund in question can be suspended up to the amount of the outstanding contributions.

## **24.3 Use of profit shares from the collective life insurance contract with Helvetia and the earnings from the investment of the savings**

### **24.3.1**

The Board of foundation decides on the use of the profit shares and earnings, applying the following order of priority:

- a Payment of interest on retirement assets; if not necessary
- b Payment of the investment and Foundation costs; if not necessary
- c Formation of actuarial reserves; if not necessary
- d Formation of fluctuation reserves; if not necessary
- e Distribution to the pension funds. Once allocated, these funds become part of the pension fund's disposable assets.

The Board of foundation specifies the rules for the formation of the actuarial reserves and the fluctuation reserves.

### **24.3.2**

Profit shares and earnings allocated in accordance with para. 24.3.1 (e) are credited annually in the form of a single premium to each insured person's account to increase the supplementary old-age savings.

If the insured person dies before retirement, any separately disclosed accrued assets from profit shares and income at the time of death are paid out to the survivors in the form of a lump sum death benefit. Para. 17 applies *mutatis mutandis*.

## **25 Promotion of Home-Ownership utilising Funds from the Occupational benefit scheme**

### **25.1 Principle**

#### **25.1.1**

Until occurrence of the insured event, at the latest up to three years before retirement, insured persons shall within the framework of the statutory provisions be entitled to use part of their individual assets from the benefit scheme for the financing of residential property (arts. 30a-f, 83a LOB and art. 331d and e, of the Swiss Code of Obligations). For persons who are partially disabled within the meaning of the LDI as well as for persons who receive provisional continued insurance (para. 18.2.4), this right applies to that part of their pension assets which does not fall under the partial pension entitlement of the DI and/or is not included in the entitlement to provisional continued insurance.

In the case of insured persons who are married or have a registered partner, the withdrawal of funds and every subsequent justification of a lien on real estate requires the written consent of the respective spouse or partner. If the insured person is unable to produce the written consent of the spouse or partner, he or she may appeal to the civil court.

### **25.2 Costs and fees**

#### **25.2.1**

In the case of advance withdrawal, pledging or the realisation of a pledge the Foundation is entitled to charge a handling fee in addition to such official charges as may be payable (land registration charges etc.). This handling fee is based on the actual expenditure incurred and currently amounts to between CHF 400.-- and CHF 600.-- for an advance withdrawal or the realisation of a pledge and a fixed amount of CHF 200.-- for a pledge.

The Board of foundation may fix these amounts anew in separate regulations on costs. The latter will be given to the insured person in the case of the submission of an application for withdrawal or pledging.

### **25.3 Due date**

#### **25.3.1**

A withdrawal shall become payable no later than six months after receipt of the completed application and shall be paid out to the account designated by the insured person. This paragraph is subject to the provisions of para. 38.2 lit. a.

### **25.4 Documents**

#### **25.4.1**

The documents requested by the Foundation shall be submitted either in one of the three official languages or in a German translation certified by the consular authorities.

### **25.5 Information**

#### **25.5.1**

The Foundation shall inform the insured person, on written request, of:

- the capital available from the pension fund for home-ownership purposes;
- the reduction of benefits as a result of the withdrawal or realisation of a pledge;
- the possibility of making good the reduction in coverage created by the withdrawal or realisation of a pledge, in respect of earning disability and death;
- the tax liability in the event of withdrawing or realisation of a pledge;
- the entitlement to a refund of taxes paid, in the event of repayment of the sum withdrawn or repayment of a previous realisation of a pledge, as well as the time limit to be respected for this purpose.

## **25.6 Shortfall in cover**

### **25.6.1**

If the pension fund suffers a shortfall in cover, the Board of foundation can decide to impose a time or amount limit or to totally suspend the pledging, advance withdrawal and repayment of pension assets for the duration of the shortfall. The applicable statutory provisions apply in all other respects.

## **Rendering of Benefits**

## **26 Payment of Due Benefits**

### **26.1 Payment**

#### **26.1.1**

With the consent of the Board of Trustees, the Foundation shall transfer the due benefits to the beneficiaries.

#### **26.1.2**

The provisions concerning pension compensation in cases of divorce (para. 21.5) and promotion of home-ownership utilizing funds from the occupational benefit scheme (para. 25) remain unaffected.

#### **26.1.3**

The Board of Trustees can take measures to secure the object of the benefit scheme.

### **26.2 Dates of payment**

#### **26.2.1**

The pensions shall be payable quarterly in advance. The dates of payment shall be determined so as to ensure that one date coincides with the beginning of the insurance year.

#### **26.2.2**

If the commencement of the pension entitlement does not coincide with a date of payment, a pension proportional to the period between the commencement of the pension entitlement and the next date of payment shall be payable.

### **26.3 Due date**

#### **26.3.1**

The first pension payment, capital benefits and any other payment which is dependent on the submission of further documents, shall fall due four weeks after the required documents proving entitlement to benefit have been submitted.

### **26.3.2**

The provisions relating to the promotion of home-ownership utilising funds from the occupational benefit scheme (para. 25) remain reserved.

### **26.4 Interest**

#### **26.4.1**

Starting from 30 days following the receipt of the necessary details, the Foundation shall pay the default interest specified by the Federal Council until the transfer of due termination benefits. The other benefits due shall be subject to the interest rate specified by the Federal Council for the old-age savings. The provisions concerning pension compensation in cases of divorce (para. 21.5) remain unaffected.

## **Reduction of Benefits in the Event of Overcompensation and Damage by Own Fault, Co-ordination with other Social Insurance Institutions**

## **27 General Rule**

### **27.1 Principle**

#### **27.1.1**

The survivors' and disability benefits will be reduced if, together with other attributable income (para. 27.2), they exceed 90 % of the presumed lost salary. Any restitution of contributions pursuant to para. 15 will be paid out without reduction.

### **27.2 Attributable income**

#### **27.2.1**

Pensions or capital benefits from Swiss or foreign social security and employee benefit institutions are taken into account in accordance with the legal provisions.

#### **27.2.2**

In addition, the earned income or substitute income that continues to be obtained or could reasonably be obtained shall be attributed to recipients of disability benefits. However, during the provisional continued insurance (para. 18.2.4), no earned income or substitute income that could reasonably be obtained shall be attributed if it was not already attributed prior to the provisional continued insurance. The person entitled to the benefits shall notify the Foundation about all attributable income.

#### **27.2.3**

If other insurance carriers reduce or withhold their benefits as a consequence of a fault attributable to the beneficiary, then the full benefits of these carriers shall be taken into account for the calculation of benefits.

## **27.3 Personal fault**

### **27.3.1**

If the death or earning disability of the person entitled to benefits has been caused by serious fault or in the commission of a crime or an offence, or if such person has resisted DI reintegration measures, there shall only be entitlement to a pension within the limits of the statutory minimum benefits. This pension shall be reduced to the same extent as the OASI/DI reduces, withdraws or refuses its benefits.

## **28 Co-ordination with the accident and/or military insurance**

### **28.1 Survivors' and disability benefits**

#### **28.1.1**

If death or earning disability is due to an accident, the Foundation shall only provide its benefits within the limits of the statutory co-ordination provisions, and in no event, however, benefits higher than the statutory minimum benefits (see inter alia arts. 23 and 24 LOB). The same applies to illnesses for which the military insurance is obliged to pay benefits, to occupational illnesses pursuant to art. 9 LAI (Federal Law on Accident Insurance) and in the event of injuries to persons similar to accidents pursuant to art. 9 UVV (Accident Insurance Regulation). Para. 28.1.3 remains reserved.

#### **28.1.2**

The Foundation shall provide its benefits under these regulations proportionately if the Accident or Military Insurances do not provide full benefits because death or earning disability cannot exclusively be attributed to a cause giving entitlement to benefit on their part.

#### **28.1.3**

The benefit reservations under para. 28.1.1 and 28.1.2 shall not be applicable to the following survivors' and disability benefits:

- restitution of contribution
- lump sum death benefit
- In the case of salary-dependent spouse's or partner's pensions for parts of the salary below the LAI maximum, or in the case of spouse's or partner's pensions dependent on projected old-age savings for the entire benefit, but no more than 24% of the LAI maximum.
- waiver of contributions.

Any supplementary accident coverage pursuant to the benefit plan is reserved.

#### **28.1.4**

The obligation to effect premature benefits pursuant to art. 22 para. 4 LOB for spouse's and orphans' pensions, and pursuant to art. 26 para. 4 LOB for disability pensions is limited to the statutory minimum benefits. The same applies to the obligation to effect premature benefits pursuant to art. 70 para. 2 d of the General Part of Social Insurance Law (GPSL).

# Financing

## 29 Financing of the Benefits

### 29.1 Principle

#### 29.1.1

The financing of the old-age credits as well as the risk premiums, inflation premiums, cost premiums and contributions to the security fund is regulated in the benefit plan. The old-age credits shall be invoiced separately from the other contributions and credited to the old-age savings of the individual insured person. If there is a shortfall in cover, the Board of foundation can also levy additional recapitalisation contributions (art. 38.3).

#### 29.1.2

The employer is legally bound to pay at least 50 % of the total contributions. The employer deducts the employee's contributions from the monthly salary (in twelve equal sums) and is responsible for transferring the total contribution to the Foundation.

### 29.2 Duration of obligation to pay contributions

#### 29.2.1

The obligation to pay contributions shall commence upon inclusion in the benefit scheme and shall continue until the insured person leaves the employment of the associated company or until the claim to retirement benefits arises.

#### 29.2.2

The waiver of contributions (para. 20) in the event of incapacity for work or earning disability or the charging of contributions after withdrawal from the company but before the expiry of the waiting period for waiver of contributions remains reserved.

### 29.3 Purchase of benefits

#### 29.3.1

An insured person who is completely capable of gainful employment can improve his retirement benefit by paying pension purchase contributions during the term of the employment within the framework of the below-mentioned provisions.

#### 29.3.2

These sums shall be used to purchase, as supplementary funding, lost years of contributions and increases in salary.

#### 29.3.3

The maximum possible old-age savings may be derived from the table in the benefit plan.

The maximum benefit to be purchased is equal to the maximum old-age savings reduced by the old-age savings already accumulated. Benefit capital with other vesting institutions must be added to the accumulated old-age savings. This capital, as with the termination benefit from previous benefit arrangements (para. 21.2.3), must be incorporated into the Foundation. The insured person must notify the Foundation of the name of the previous vesting institution as well as the type of benefit coverage. The accumulated old-age savings shall also include Pillar 3a contributions by (past and present) self-employed persons pursuant to art. 60a OOB2.

In this way, the purchase is limited to such benefits which would have been attained with the maximum years of contribution and the final insured salary art. 60b OOB2 remains reserved.

#### 29.3.4

The calculation of the benefit plan is based on:

- the insured salary at the time the improvement is implemented
- the old-age credits under the regulations from the employer and the employee.

#### 29.3.5

In addition, the limits on the maximum pension purchase contributions imposed by statute and regulations must also be complied with.

#### 29.3.6

The insured person is also recommended to clarify the question of tax deductibility with the appropriate authority. The Foundation cannot accept any responsibility in this regard.

#### 29.3.7

Should the tax authorities impose restrictions, the Foundation may limit or disallow the purchase sums.

#### 29.3.8

Payments must be effected with an application form and may as a rule only be made once a year

#### 29.3.9

If pension purchase contributions are made, the resulting benefits shall not be withdrawn from the pension fund in the form of capital within the next three years. If withdrawals have already been made for the promotion of home-ownership, voluntary purchase contributions may only be made once these withdrawals have been repaid. Purchase contributions pursuant to art. 60d OOB2 are permitted.

#### 29.3.10

The limitation shall not apply to repurchases of contributions in the case of divorce pursuant to art. 22d (1) LVOB.

### **29.3.11**

Insured persons opting for capital payment cannot make any further purchase contributions in the last three years before retirement. The right to make purchase contributions pursuant to art. 22d (1) LVOB remains reserved.

Contributions that, at the time of retirement, are subject to the capital payment prohibition shall be paid out in the form of a life-long annuity in accordance with the collective insurance tariff in force.

### **29.3.12**

The contributions are credited to the supplementary old-age savings. Art. 22d (1) LVOB remains unaffected.

## **29.4 Purchase for early retirement**

### **29.4.1**

An insured person fully capable of employment can reduce pension shortfalls benefits with regard to a planned early retirement in whole or in part with voluntary contributions in the context of the statutory guidelines. The maximum possible contribution for buying into early retirement at a particular retirement time up to early retirement is the difference between the maximum possible contribution pursuant to para. 29.4.3 and the contributions already made with interest for the purpose of early retirement (partial purchase).

Any pension gap still existing can only be fully compensated for at the earliest three months before the definitive early retirement. By taking into account a partial payment already made, the difference between the assumed retirement pension at the regular retirement age and the reduced retirement pension in the case of early retirement can at most be purchased (full purchase). In the case of full purchase, the right under the regulations to draw the retirement benefit in whole or in part in the form of capital lapses.

### **29.4.2**

The possible partial purchase sum is calculated on the basis of:

- the insured salary at the time of the purchase to improve the benefits,
- the contributions already made for purchase into early retirement.

### **29.4.3**

The maximum possible contribution to the partial purchase is calculated on the basis of the assumed retirement pension at the ordinary retirement age and the reduced retirement pension in the case of early retirement.

The pension reduction is calculated on the basis of the current salary and the planned old-age credits, the conversion rate at the time of the event as per the rating and an interest rate of 0%.

The maximum possible contribution to the full purchase may be derived from the assumed retirement pension at the ordinary retirement age and the reduced retirement pension in the case of early retirement.

### **29.4.4**

Before contributions to make up the pension shortfall due to early retirement can be made, the following requirements must be met:

- a) the insured person has brought all vested benefits from previous occupational benefit arrangement into the pension fund;
- b) the insured person has already purchased all missing insurance years and any salary increases;
- c) the insured person has completely repaid and/or deposited any premature withdrawals to finance the acquisition of residential property or the transfer of vested benefits to the divorced spouse as provided for by law.

### **29.4.5**

A contribution to the partial purchase into early retirement shall only be possible once per calendar year. It must be applied for in advance using the corresponding application form.

A contribution to the full purchase into early retirement shall only be possible once. It can occur at the earliest three months before the reported early retirement and must occur compulsorily before the first payment of the retirement pension. As soon as the full purchase has been made into early retirement, the retirement shall start irrevocably on the date reported.

### **29.4.6**

The provisions regarding the prohibition on the withdrawal of capital and/or the lump-sum option pursuant to para. 29.3.9 and 29.3.11 to apply *mutatis mutandis*. The restricting regulations according to para. 29.4.1 shall remain reserved.

### **29.4.7**

If the insured does not take early retirement or retires at a later date than the prefinanced date, the additional contributions are credited to the pension fund in accordance with the adequacy provisions of the law if the benefit target under the regulations at normal retirement has been exceeded at retirement age by more than 5 %.

### **29.4.8**

The insured person is advised to clarify the situation regarding the tax deductibility of the additional contributions with the relevant tax authority. The Foundation accepts no liability in this regard.

#### **29.4.9**

The contributions are credited to the supplementary old-age savings, and the interest earned is added to the supplementary savings pursuant to para. 7.3.1, second sentence.

#### **29.4.10**

If the insured dies before retirement, the accrued assets at the time of death are paid out to the survivors in the form of a lump sum death benefit. Para. 17 applies mutatis mutandis.

#### **29.4.11**

If the insured person is entitled to a disability pension pursuant to para. 18, the assets accrued for the purpose of financing early retirement continue to accrue and are paid out as a retirement benefit pursuant to para. 10 once the final retirement age is reached.

#### **29.4.12**

If the employment relationship is terminated before the occurrence of an insured event and the insured person leaves the employee benefits institution, the assets accrued for the purpose of financing early retirement are treated as additional vested benefits as defined in para. 21.

#### **29.4.13**

The assets accrued for the purpose of financing early retirement can be withdrawn in advance or pledged to finance the acquisition of residential property. The corresponding provisions of the regulations apply mutatis mutandis.

#### **29.4.14**

In the event of divorce, para. 21.5 shall apply.

#### **29.4.15**

The Foundation reserves the right to amend the legal and tax provisions.

### **30 Amount of Contributions**

#### **30.1 Old-age credits**

##### **30.1.1**

The amount of the annual old-age credits is specified in the benefit plan.

#### **30.2 Risk Premiums, Adjustment to the Price Index, Costs**

##### **30.2.1**

The insured benefits are financed by means of a risk premium, while the adjustment of the statutory survivors' and disability pensions to the price index is financed by means of an inflation premium. If required, contributions for actuarial reserves can be levied.

#### **30.2.2**

In addition, the Foundation charges cost premiums for the costs incurred in connection with the occupational benefit scheme.

### **30.3 Security Fund**

#### **30.3.1**

The Foundation shall have to make contributions to the security fund for the subsidies in the case of an unfavourable age structure and for cover for insolvency. They shall be fixed by the same in agreement with the Federal Council and shall be invoiced pro rata to the companies associated to the Foundation.

### **31 Other pension fund assets**

#### **31.1 Free Pension Fund Assets**

##### **31.1.1**

All funds not required to finance regulatory benefits are allocated to free pension fund assets. The free pension fund assets may be used to improve benefits generally or for permissible discretionary benefits.

#### **31.2 Employer's Account for Contribution Reserves**

##### **31.2.1**

The employer contribution reserve is an uncommitted pension fund reserve constituted by the employer and maintained separately. It may be used to finance employer contributions.

## General Provisions

### 32 Obligation to Disclose and Notify

#### 32.1 Principle

##### 32.1.1

Each insured person shall provide the Foundation with information about all conditions of relevance to the benefit scheme.

If a benefit is claimed, the following documents shall be submitted to the Foundation.

##### 32.1.2

For retirement benefits:

Evidence of existence, if the Foundation so requests. If a pensioner's child's pension is claimed, evidence of the child's date of birth and entitlement to benefit must be submitted.

##### 32.1.3

For death benefits:

An official death certificate; a doctor's certificate about the cause of death and the more detailed circumstances of the death; official evidence of the widow's, widower's or partner's date of birth. The Foundation reserves the right to require additional evidence establishing the claim for partners and beneficiaries.

If an orphans' pension is claimed, official evidence of the child's date of birth and entitlement to benefits shall be submitted.

##### 32.1.4

For disability benefits:

A report on the change occurring to the performance capacity and earning relationships of the insured person, a detailed report by the treating doctors about the cause, course and duration of the illness or the accident, as the case may be, and all rulings by the DI, the LAI insurer and the military insurance. In particular, the Foundation shall be notified immediately of any change to the capacity for work or degree of disability.

If a disabled's child's pension is claimed, official evidence shall be submitted of the child's date of birth and entitlement to benefits.

##### 32.1.5

Even after the insured event has been acknowledged, the Foundation can obtain additional information about the income conditions and the state of health of the insured person from doctors, other persons and institutions as well as the insured person him/herself and may have the insured person examined by doctors under its instruction to the extent that this appears necessary to clarify the continued entitlement to benefits. These provisions shall apply mutatis mutandis to the state of health of the child concerned for orphans', pensioner's children's and disabled's children's pensions.

##### 32.1.6

The entitlement to benefits shall be forfeit if an obligation is infringed, on the performance of which the determination of the claim or its extent depends. Likewise, the claim shall be forfeit if, despite a written request stating the consequences of failure to comply, the information, documents and medical certificates requested by the Foundation are not submitted, if an insured person refuses to submit to an examination requested by the Foundation or if a doctor that the Foundation wishes to contact is not released from doctor-patient confidentiality. The infringement of an obligation shall not lead to any disadvantage for the person entitled to benefits if the infringement is the consequence of an impediment arising without fault and if the obligation is made good as soon as the impediment no longer applies. In any event, the statutory minimum benefits are guaranteed.

### 33 Assignment and Pledging

#### 33.1 Benefits

##### 33.1.1

None of the benefits insured under these pension fund regulations may be assigned or pledged before the date on which they fall due. The provisions relating to the promotion of home-ownership utilising funds from the occupational benefit scheme (para. 25) remain reserved.

#### 33.2 Third-party Liability Claims

##### 33.2.1

For the statutory benefits, the Foundation shall at the time of the event enter into the insured person's claims against liable third parties. For more extensive benefits, it can also require the reversioner of survivors' or disability benefits to assign to it his claims to which he is entitled against liable third parties with respect to the incident, up to the amount of its benefits obligation.

### 34 Joint Administration

#### 34.1 Board of Trustees

##### 34.1.1

A Board of Trustees is responsible for the joint administration of the pension fund. It consists of an equal number of employer and employee representatives.

## **34.2 Organization Rules**

### **34.2.1**

The election of the members of the Board of Trustees, the organization, the rights and duties of the Board of Trustees and its members are set out in the Organization Rules (Appendix II to these pension fund regulations).

## **35 Organization**

### **35.1 Insurance Certificates**

#### **35.1.1**

For each insured person, the Foundation shall, at the beginning of each year, prepare an insurance certificate specifically showing the reversionary benefits.

## **Transitional Provisions**

### **36 Transitional Provisions**

#### **36.1 Survivors' benefits if disability occurred before 1.1.2005**

##### **36.1.1**

Female disability and retirement pension recipients who were already disabled within the meaning of the DI or who were receiving a retirement pension on 31.12.2004 are, notwithstanding para. 12.2.1 and 12.2.2 or the pension specified in the benefit plan, only insured for the minimum spouse's pension pursuant to art. 19 and art. 21 LOB. Para. 12.5 and 12.6 of the general provisions shall apply mutatis mutandis.

##### **36.1.2**

In the case of insured persons who were disabled as at 31.12.2004, a partner's pension is insured solely for that part of the salary that was actively insured as at 31.12.2004.

##### **36.1.3**

In the case of female disability pensioners in accordance with para. 36.1.1 and insured persons in accordance with para. 36.1.2, the benefits are increased accordingly in cases of partial or total reactivation.

#### **36.2 Disability occurring before 1.1.2007**

##### **36.2.1**

The disability pensions of insured persons who were already disabled as defined by the DI on 31.12.2006 remain subject to the pension fund regulations in force at the time of the occurrence of the insured event.

##### **36.2.2**

If in such cases pensions are reviewed after 1.1.2007, subject to art. 26a LOB, the provisions pursuant to arts. 23 and 24 LOB shall be applicable to the entire claim as of the date of review. The amount of benefits specified in the benefit plan shall, however, apply unchanged.

## Final Provisions

### 37 Amendments to the Pension Fund Regulations

#### 37.1 Principle

##### 37.1.1

Entitlements to benefits upon retirement and in the event of death shall be determined according to the pension fund regulations in force at the time of the occurrence of the insured event. Entitlements to benefits in the case of incapacity for work and earning disability shall be determined according to the pension fund regulations in force at the start of the incapacity for work, the cause of which has led to the entitlement to benefits.

##### 37.1.2

These pension fund regulations can be amended with the consent of the Board of foundation and while safeguarding the duly acquired rights of the beneficiaries by the Board of Trustees.

##### 37.1.3

Within the scope of the duties and competencies incumbent on it pursuant to the organization rules, the Board of foundation can amend the pension fund regulations even without the consent of the Board of Trustees. This shall apply, in particular, for regulations concerning investments (e.g. payment of interest) and insurance contract benefits (e.g. tariff or legal changes). The duly acquired rights of the beneficiaries shall remain guaranteed.

##### 37.1.4

Amendments to the regulations are to be brought to the attention of the BSABB supervisory authority.

**These regulations are a translation of the original German text. In the event of deviations or difficulties in interpretation the German version of the regulations shall prevail.**

### 38 Measures to remedy a Foundation shortfall

#### 38.1 Share in loss in the event of partial or total liquidation of the pension fund as a result of actuarial deficits.

Irrespective of the duration of the affiliation with the Foundation, the Foundation may proportionally deduct actuarial deficits in the event of a partial or total liquidation of a pension fund as a share in the loss (Art. 6.2 of Appendix IV). Para. 6.2 of appendix IV shall also apply mutatis mutandis in the event of a cover shortfall of the investment pool.

A share in the loss is financed from the pension fund's assets in the following sequence:

1. Employer contribution reserve with waiver of use (Art. 38.5), if these funds are insufficient
2. Uncommitted funds; if these funds are insufficient,
3. Employer contribution reserves, if these funds are insufficient,
4. Credit balance of collection account, if these funds are insufficient;
5. Special measures, if these funds are insufficient,
6. extra-mandatory retirement assets of the insured persons.

If the affiliation contract is terminated by the company with the pension fund commission's written consent, or if the company provides the Foundation with good cause to terminate the contract, e.g. by violating its obligation to cooperate or to pay contributions, and this reason for liquidation with reference to Art. 3 of the regulations on costs results in the reduction of the minimum retirement assets pursuant to the LOB (Art. 1.3 of Appendix IV) when the Foundation determines the liquidation value of the contract, the employer will be responsible for paying the difference (e.g. by a one-off contribution, guarantee commitments to the new pension fund). The retirement assets pursuant to Art. 15 LOB are guaranteed by the Foundation.

#### 38.2 Measures by the Board of foundation to improve the Foundation's funding ratio

The Board of foundation lays down the rules for calculating the Foundation's and the investment pool's funding ratio in compliance with Art. 44 par. 1 BVV2. For the duration of any shortfall in cover, the Board of foundation can implement measures to remedy the shortfall, such as

- a limiting or banning the pledge, advance withdrawal or repayment of pension assets under the promotion of home ownership scheme;
- b suspending resolutions by the pension fund commission concerning the use of the pension fund reserves to improve benefits and for discretionary benefits.

#### 38.3 Recapitalisation contributions resolved by the Board of foundation

If the measures pursuant to Art. 38.2 do not achieve their objective, the Board of foundation must levy additional and separate recapitalisation contributions in equal shares from the employer and the employees in order to improve the funding ratio of the Foundation or the investment pool, respectively.

The amount of the recapitalisation contributions is determined as a percentage of the total pensionable salaries and depends on the extent of the shortfall in cover. The Board of foundation determines the relevant percentage, the start and the period of compulsory recapitalisation contributions.

The recapitalisation contributions are paid in the form of a contribution and form part of the assets of the Foundation but not of the pension funds' assets. These contributions are not credited to the retirement assets of the insured persons.

#### **38.4 Reducing the interest rate to less than the minimum interest rate for mandatory LOB retirement assets determined by the Federal Council**

If the measures pursuant to Art. 38.3 should also prove to be insufficient, the Board of foundation can also reduce the interest rate for the mandatory LOB retirement assets to at most 0.5 percentage points below the minimum rate of interest and for a maximum of 5 years.

#### **38.5 Additional employer contributions**

For the period during which the investment pool suffers a cover shortfall and in an effort to reduce any share in loss that the pension fund might have to bear in the event of a liquidation, the employer can make additional payments to a separate non-interest-bearing account "Employer contribution reserves with waiver of use" held by the pension fund, or transfer funds from the deposit account for employer contribution reserves to this account. The relevant statutory provisions also apply.

#### **38.6 Information regarding a cover shortfall**

If there is a cover shortfall, the Board of foundation must inform the supervisory authority, the employer, the insured persons as well as the pensioners about the extent and the causes of a cover shortfall as well as any measures that were implemented.

#### **39 Partial liquidation of the investment pool**

The provisions on partial liquidation of the Foundation (para. 2 of appendix IV) shall apply mutatis mutandis to the investment pool.

#### **40 Place of jurisdiction**

The place of jurisdiction for disputes arising in connection with this contract shall be determined pursuant to art. 73 of the LOB.

#### **41 Entry into force**

These pension fund regulations shall come into effect on the date specified in the benefit plan.

## Appendix I

### **on the obligation of registered employee benefit institutions to provide information to their insured persons**

The employee benefit institutions must provide their insured persons with information annually in accordance with art. 86b para. 1 LOB and, upon request, in accordance with art. 86b para. 2 LOB.

The present pension fund regulations and the insurance certificates provide information about the level and the calculation of benefits.

The Foundation provides the following additional information, which is outwith the scope of the pension fund regulations and the insurance certificates.

The Helvetia LOB Invest Group Foundation for Employee Pensions is a collective foundation domiciled in Basle and founded within the meaning of art. 80 ff. of the Swiss Civil Code. The Foundation's object is to provide insurance benefits to employees and employers in accordance with the Federal Law on the Occupational Old-age, Survivors' and Disability Benefit Plans (LOB).

The bodies of the Foundation are the Board of Trustees of each pension fund, based on the principle of equal representation, and the Board of foundation.

The management of the company has been transferred to Helvetia. Communications from Helvetia shall be deemed to be communications from the Foundation and vice versa.

The auditors of the Foundation are KPMG Ltd in Zürich. The competent supervisory authority is the BVG- und Stiftungsaufsicht beider Basel (BSABB) in Basle.

The Foundation's recognised accredited pension actuary is Beratungsgesellschaft für die zweite Säule, Aktiengesellschaft, Basle.

Further information may be obtained from the Board of Trustees of the pension fund, the designated Branch Office or Head Office of the Helvetia.

## Appendix II

### Organization Rules

#### Art. 1 Equal representation on the Board of Trustees

##### 1.1 Composition

Equal representation on the Board of Trustees for each pension fund is made up as follows:

- a) employer representatives appointed by the employer, and
- b) an equal number of employee representatives elected from among the persons insured, taking categories of employees into account.

Each Board of Trustees shall constitute itself. Once the resolution has been passed by the Board of Trustees, the period of office of the president shall be three years at the most. The president shall be elected by a simple majority of the votes of all members. Re-election shall be possible. If no new election shall be held after the expiry of a period of office, the period of office of the president shall be tacitly extended by one year in each case.

The period of office of the members of the Board of Trustees shall be three years. It may be extended by a resolution of the Board of Trustees to a maximum of five years. If no new elections shall be held after the expiry of the period of office, its duration shall be tacitly extended for the elected members by one year in each case. Re-election shall be possible.

Termination of the employment shall result in retirement from the Board of Trustees. A substitute will be elected for the remainder of the term of office.

Any changes of representatives on the Board of Trustees must be notified immediately to the Board of foundation.

##### 1.2 Election of employee representatives

All employees participating in the pension fund are eligible for election and entitled to vote.

Election shall be by a straight majority of the votes cast (relative majority). Those candidates are elected who gain the majority of the votes cast in the first ballot. The same procedure shall be adopted for elections under art. 1.1 para. 4.

Elections shall be notified in writing by means of an election report to the Board of foundation.

##### 1.3 Meetings; Passing of Resolutions

Each Board of Trustees shall meet as often as required by the business of the pension fund, but at least once a year. A meeting shall be convened on the request of either the president or at least half of the members of the Board of Trustees.

The president chairs the meeting.

Resolutions shall be passed by a straight majority of the votes of all members.

Minutes shall be kept of the resolutions and shall be signed by a representative of both the employer and the employees. These minutes must be submitted to the Board of foundation if the Foundation has to act on the basis of the resolutions.

If the Board of foundation ascertains an illegality, it shall notify the Board of Trustees immediately and, if necessary, instruct it to take legal action or do so itself. The Board of foundation cannot annul a resolution passed by the Board of Trustees but may suspend it until investigation by a supervisory or legal body has been concluded.

In the event of a tied vote, the president shall have the casting vote. The Board of Trustees may envisage another procedure. Any resolutions passed on this matter must be notified immediately to the Board of foundation in the minutes.

Resolutions may also be passed by circular letter. A circulation resolution shall be adopted if all members of the Board of Trustees shall consent.

##### 1.4 Function; Rights and Obligations

Each Board of Trustees shall be the equal representation body appointed for the corresponding pension fund.

The Board of Trustees shall instruct the Board of foundation to exercise the function and competence assigned to it under the Organization Rules.

Any withdrawal of the assignment shall entitle the Foundation to cancel the contract of association with the employer in question, with immediate effect.

Subject to the above provisions, each Board of Trustees shall administer the relevant pension fund. It shall perform the following function:

- a) it shall approve staff pension fund regulations prepared by the Foundation with regard to the benefit plan selected;
- b) It shall inform the beneficiaries of the organization, activity and financial position of the pension fund; upon request it must communicate information concerning the pension fund to the insured in writing;
- c) It shall ensure that the employer submits the documents and notifications required by the contract of association;
- d) It shall check that the premiums are remitted by the due date;
- e) it shall assist in obtaining the documents necessary to substantiate a claim in a case of a benefit payment;
- f) It shall notify the Board of foundation of any changes in the entitlement to benefits under the regulations immediately after such resolution;
- g) It shall assist on clarifying claims for benefits and in the decision on payment of benefits;
- h) It shall pass resolutions, in accordance with the object of the Foundation, on the use of the free assets of the pension fund;
- i) It shall decide on the reduction of benefits under the regulations in connection with claims arising from collective and social insurances.

Communications by the Board of Trustees to the Board of foundation shall be legally valid provided they are received in writing at the Head Office of Helvetia Swiss Life Insurance Company Ltd in Basle.

## **Art. 2 Function of the Board of Foundation**

In particular, the Board of Foundation has the following inalienable specific functions and competences:

- a) It shall represent the Foundation externally and determine the authority to sign; these can also be granted to persons outside of the Board of foundation;
- b) It draws up and approves the annual accounts;
- c) It issues and approves the basic texts for the regulations and the contracts of association drawn up by the managing company; it can change the regulations without the authorization of the Board of Trustees;
- d) It shall decide on the investment of resources belonging to the pension funds; insofar as this competence has not been delegated to the Board of Trustees;
- e) It shall conclude the reinsurance contracts;
- f) It shall determine the order of business for the Board of foundation;
- g) It shall supervise the activity of the other foundation bodies;
- h) It shall appoint the auditors with the consent of at least three quarters of the Board of foundation;

- i) It shall appoint the recognised expert for the occupational benefit scheme with the consent of at least three quarters of the Board of foundation;
- j) It draws up the investment regulations;
- k) It determines the level of the technical interest rate and the other technical bases.

The Board of Foundation shall transfer day-to-day business to the Helvetia Swiss Life Insurance Company Ltd, Basle, (the Manager) in particular:

- the conclusion, the extension and the termination of contract of association,
- the making available of the pension fund regulations
- day-to-day correspondence,
- collection of benefit scheme contributions,
- running of the book-keeping,
- keeping of retirement accounts
- provision of insurance certificates,
- settlement of claims upon occurrence of insured events in accordance with the pension fund regulations and any resolutions of the Board of Trustees,
- issue of receipts, certificates,
- information from the Board of Foundation relevant for the execution of its duties,
- information from the Board of Trustees relevant for the execution its duties,
- preparation of the annual accounts of the Foundation for the attention of the Board of Foundation,
- all other business assigned to it by the Board of Foundation.

The Board of Foundation transfers the determination of the signatory authority for current transactions to the managing company.

The Board of Foundation shall delegate its activities as Board of Trustees to the managing company for those pensions schemes for which the composition according to art. 1.1 is not possible (e.g. following cancellation of the contract of association due to liquidation of the employer's company or the lack of any employees).

Decisions concerning business not assigned to other bodies shall also be the responsibility of the Board of foundation.

## **Art. 3 Functions of the Investment Commission**

- a) The activity of the Investment Commission is determined by the provisions of the investment regulations issued by the Board of foundation.
- b) The Investment Commission reports regularly to the Board of foundation regarding the yield trends and the fair value of the investment portfolio.

#### **Art. 4 Function of the auditors**

The auditors shall exercise their mandate according to the provisions of the LOB and the corresponding executive statute.

The auditors can be given assignments by the Board of foundation, in particular for the inspection of individual pension funds.

#### **Art. 5 Function of the Expert**

The recognised expert for the occupational benefit scheme shall exercise his mandate according to the provisions of the LOB and the corresponding executive statute.

#### **Art. 6 Relationship to the Pension Fund Regulations**

These Organization Rules form an integral part of all pension fund regulations.

Basle, april 2012

The Board of Foundation

## **Appendix III**

### **on the treatment and protection of personal data**

The personal particulars relevant to the implementation of the insurance shall be made available to Helvetia. Helvetia shall make the data relating to the insurance available, to the extent necessary, to other insurance companies, in particular to co-insurers and reinsurers. In view of the close relationship which exists between the Helvetia Swiss Life Insurance Company Ltd and the Helvetia Swiss Insurance Company Ltd, all data will be filed jointly.

Where redress is sought against a third party, the Foundation is entitled to provide all information relevant to the enforcement of its legal claim to the liable third party or his liability insurer.

The Foundation and the insurance companies involved have taken all measures necessary to ensure that personal data is treated in strictest confidence.

## Appendix IV

### Partial or total liquidation of the pension fund and/or partial liquidation of the Foundation

#### 1 Partial or total liquidation of the pension fund

##### 1.1 Total liquidation of the pension fund

If the contract of association is terminated and if the employer joins another employee benefit institution together with the employees and all the recipients of benefits belonging to the pension fund, this shall lead to the dissolution of the contract of association and to a total liquidation of the pension fund. The value of the contract at termination thus determined (the free pension fund assets, [hereinafter: free assets], the employer's contribution reserves, the employer's contribution reserves with waiver of use, the actuarial reserves of the pension fund and the fluctuation reserves of the pension fund, as well as the retirement assets according to the regulations) will be transferred to the new employee benefit institution collectively and in cash, pursuant to para. 1.3. The mathematical reserves determined by Helvetia Swiss Life Insurance Company Ltd, Basle based on the provisions of their tariffs for the pensioners to be transferred are also transferred to the new employee benefit institution collectively and in cash.

The discontinuation of the employer's business activities due to the opening of bankruptcy or similar proceedings will also result in the total liquidation of the pension fund, provided that no pension recipients remain with the Foundation. The following provisions on a partial liquidation apply *mutatis mutandis*.

##### 1.2 Partial liquidation of the pension fund

###### 1.2.1 Conditions for a partial liquidation of the pension fund

The requirements for a partial liquidation of the pension fund are deemed to have been fulfilled

- a) if there is a considerable reduction in the workforce of a company that continues to be associated with the Foundation, e.g. in the event of mass redundancies,  
or
- b) if active insured persons leave for economic reasons caused by the restructuring measures introduced by a company that continues to be associated with the Foundation, such as the spinning off of part of the company,  
or
- c) if, on the one hand, all the active insured persons in the pension fund leave (e.g. if the employer joins another employee benefit institution with the active

insured persons (c1) or at the termination of the employers' business activity due to the start of bankruptcy proceedings or similar proceedings (c2) and, on the other hand, the pension recipients belonging to the pension fund continue to be members of the pension fund (hereinafter: partial dissolution of the contract of association).

In the event of a partial liquidation of the pension fund and subsequent association with another employee benefit institution (c1), not only the free assets, but also the actuarial reserves of the pension fund and the fluctuation reserves of the pension fund must be collectively transferred to the new employee benefit institution proportionately and in cash. In these cases, the employer's contribution reserves and the employer's contribution reserves with waiver of use must be transferred integrally, collectively and in cash to the new employee benefit institution. In the event of the termination of the employer's business activities (c2), not only the free assets, but also the actuarial reserves of the pension fund, the fluctuation reserves of the pension fund, the employer's contribution reserves and the employer's contribution reserves with waiver of use must be distributed individually and in cash between the active insured persons and the pensioners of the pension fund. The following provisions in para. 1.2.2 - 1.2.8 shall apply *mutatis mutandis*.

###### 1.2.2 Duty of determination of the Board of Trustees, group of beneficiaries and quantitative instructions for carrying out the partial liquidation of a pension fund

The duty of determination of the existence of conditions warranting a partial liquidation of the pension fund due to a significant reduction in the workforce (para. 1.2.1 a) or due to restructuring measures (para. 1.2.1 b) is the responsibility of the Board of Trustees (para. 1.2.5). The execution of a partial liquidation of the pension fund includes the division of the free assets available into individual or collective shares and the distribution thereof to the active insured persons in the pension fund (in the case of para. 1.2.1 a, including any former active insured persons who have already left and the partially disabled within the parameters of their gainful activity) and to those recipients of retirement and (partial) disability pensions, who are still members of the pension fund and who receive a pension from the Foundation (hereinafter pensioners).

The execution of a partial liquidation due to a significant reduction in the workforce (para. 1.2.1 a) is carried out if the number of active insured persons in the relevant pension fund is reduced due to the immediate or staggered reduction in personnel within 6 consecutive calendar months as follows:

With a portfolio of active insured persons of

- up to 5 employees: by at least 2 insured persons;
- 6 to 10 employees: by at least 3 insured persons;
- 11 to 25 employees: by at least 4 insured persons;
- 26 to 50 employees: by at least 5 insured persons;
- over 50 insured persons: by at least 10 % of the pension fund's portfolio of insured persons.

If the reduction in personnel is due to restructuring measures (para. 1.2.1 b) carried out by the associated company, there is no requirement for a minimum number of departures of active insured persons due to these measures for a partial liquidation to be carried out. The company is in a state of restructuring as soon as there is a reduction in workplaces due to organisational reasons on the part of the employer (e.g. due to outsourcing of whole company units or of tasks previously carried out in house).

In principle, the execution of a partial liquidation of a pension fund is carried out automatically in the case of a partial dissolution of the contract of association (para. 1.2.1 c).

#### 1.2.3 Fixed proceedings in the case of the insignificance of free assets / waiver of execution due to the principle of reasonableness

- a) Fixed proceedings in the case of insignificance of the free assets of the pension fund  
If the amount determined for the free assets available for distribution totals less than CHF 10'000.-- at the time the distribution is due to take place, such assets are divided equally between each of the entitled beneficiaries (active insured persons and/or those who have already departed and pensioners).
- b) Waiver of execution of the partial liquidation due to the principle of reasonableness
- No partial liquidation is carried out if the free assets on the anniversary date of the partial liquidation equal less than 5 % of the old-age savings of the active insured persons in the pension fund and
  - the mathematical entitlement to the free assets is on average less than CHF 1'000.-- per head.

In these cases the free assets remain in the pension fund's safekeeping accounts. The Board of Trustees decides how these assets should be used

#### 1.2.4 Standard procedure for carrying out the partial liquidation of a pension fund: criteria for the division of the free assets

- a) The division of the free assets between the active insured persons and the pension fund's pensioners

The division of the free assets to be distributed is carried out in a first step as a proportion of the sum of the old-age savings of the active insured persons (for para. 1.2.1 a) this includes those active insured persons who have already departed) to the sum of the mathematical reserves of the pensioners (which equals the accrued old-age savings for disability pensioners).

The pensioners group is not taken into account if the share per pensioner is on average less than CHF 6'000.--. If this amount is not reached then this share is credited to the active insured persons.

- b) The individual division of the share of the free assets of the active insured persons based on a distribution plan - collective transfer in the event of para. 1.2.1 c) (c1)

The distribution of the share of the free assets to those active insured persons who leave and/or have left the pension fund and thus the Foundation due to a substantial decrease in the workforce or restructuring, but also due to a partial dissolution of the contract of association, but where the employer does not join a new employee benefit institution (cf. para. 1.2.1 c) is carried out based on the distribution plan.

The distribution plan represents a combination of the following resolutions of the Board of Trustees:

- determination of the group of active insured persons (in the case of para. 1.2.1 a) including those who have already left, cf. para. 1.2.5);
- allocation formula for the distribution of the free assets. The criteria for this are calculated by multiplying the actual months of contribution to the Foundation between the start of employment and the termination of employment (from age 25) and the actual old-age savings accrued and/or the termination benefit.

The share of the free assets of the active insured persons who leave the pension fund is transferred to their new employee benefit institution individually and in cash based on the distribution plan.

If, however, there is a partial liquidation of the contract of association instead (para. 1.2.1 c)) with a new association of the employer and the active insured persons to another employee benefit institution, the share of free assets determined for the active insured persons is transferred to the new employee benefit institution collectively and in cash without a distribution plan being drawn up.

c) Division of the share of free assets to the pensioners

The allocation of the share of the free assets to the pensioners of the pension fund is carried out proportionately in relation to the mathematical reserves reported on the anniversary date of the partial liquidation. The share for those pensioners who leave the pension fund is paid out as capital benefits subject to tax.

d) Handling the share of the free assets of the active insured persons and pensioners who remain in the pension fund after the partial liquidation

The share of the free assets that are calculated based on the distribution plan that are due to the active insured persons who remain in the pension fund after the execution of the partial liquidation, as well as the share calculated for the pensioners who also remain in the pension fund, continues to be managed collectively in the relevant pension fund and in the relevant safekeeping account. The Board of Trustees decides how these assets should be used in the future. In cases pursuant to para. 1.2.1 c), the relevant share belonging to the pensioners who continue as members of the pension fund is used to improve the (poss. contingent) retirement benefit.

e) Distribution plan in the event of a cover shortage

The allocation of the share of the cover shortage to the active insured persons (including those who have already left) is carried out based on the distribution plan.

The distribution plan represents a combination of the following resolutions of the Board of Trustees:

- Determination of the group of active insured persons (in the case of para. 1.2.1 a) including those who have already left, cf. para. 1.2.5);
- Allocation formula for the transfer of rights for the cover shortage. The criteria for this are calculated by multiplying the actual months of contribution to the Foundation between the start of employment and the termination of employment (from age 25) and the actual retirement assets accrued and/or the termination benefit.

1.2.5 The Board of Trustees' obligation to co-operate

The Board of Trustees notifies the Foundation without being requested to do so if it becomes aware of the circumstances for a partial liquidation of the pension fund and/or if a partial liquidation seems necessary. The Board of Trustees delivers to the Foundation independently and without being requested to do so all the relevant information regarding the active insured persons affected and/or those who have already left that the Foundation will require in order to carry out the partial liquidation. In particular, it informs the Foundation in good time whether the departure of insured persons has been due to a staggered reduction in personnel (substantial reduction in the workforce) or due to the restructuring measures of the company and whether this reduction in personnel has lasted longer than the fixed period of 6 months. The Board of Trustees is responsible for the delivery of the resolution of the employer for the implementation of restructuring measures and the naming of the group of active insured persons affected by this. In the event of a reduction in personnel (para. 1.2.1 a) it defines the group of active and possibly former insured persons who have already left to be taken into account, whereby at least those persons who have left the Foundation within the last twelve months - calculated from the anniversary date of the partial liquidation - are part of the group to be taken into account. The Foundation notifies the pensioners via the Board of Trustees of the consequences for them of a partial liquidation of the pension fund.

The Board of Trustees may, in the event of particular cases of hardship (e.g. early retirement as a consequence of the partial liquidation) resolve to pay single premiums from the share of free assets determined for the active insured persons and/or those who have already left with the aim of improving the retirement benefit. It informs the Foundation of any such resolutions in good time.

1.2.6 Anniversary date of the partial liquidation / information and objections / complaints / responsibilities of the Board of Trustees

a) Anniversary date of the partial liquidation

If the termination of employment occurs due to a reduction in the workforce or staggered restructuring, the date of departure of the last employee affected and to be taken into account shall be deemed the anniversary date for determining the relevant amount of free assets of the pension fund in the event of a partial liquidation. The anniversary date for the total liquidation of the pension fund (para. 1.1) and/or of the partial liquidation of the pension fund due to a partial dissolution of the contract of association (para. 1.2.1 c) is determined by the date of the termination and/or dissolution of the contract of association.

b) Information and objections

If the results of the audit show that the requirements for a partial or total liquidation of a pension fund have been fulfilled, the Foundation informs the active insured persons and the pensioners via the Board of Trustees of the facts of the matter and the amount of the free assets or the shortfall and the distribution plan. The Foundation explicitly draws the attention of the active insured persons and pensioners to the fact that they have the option of inspecting the files at the Foundation's head office for 30 days following receipt of the information and that they may raise an objection in writing within the same period of time against the decision of the Board of Trustees at the head office of the Foundation. The Foundation shall send the information to the correspondence address that it has been given for the Board of Trustees.

c) Right to make an objection

If the objection is rejected, the Foundation shall set a deadline of 30 days for the person who raised the objection to have the conditions, procedure and distribution plan examined by the Foundation's supervisory body, who shall then make a decision.

d) Responsibilities of the Board of Trustees

The Board of Trustees is responsible for ensuring that the active insured persons and/or those who have already left receive comprehensive information - while respecting data protection principles - so that they are fully aware of their rights, as described in para. 1.2.6 a)-c). The Foundation supports the Board of Trustees upon request, in particular with regard to the data of those persons who have already left but who might possibly also be taken into account.

If there are delays in the complaints procedure before the supervisory authority or if the Board of Trustees is slow in fulfilling its duty of information, the deadline for carrying out the partial liquidation of the pension fund will be postponed accordingly.

The Board of Trustees informs the Foundation on an ongoing basis of the steps that it has carried out, in particular of the date when information was distributed pursuant to para. 1.2.6.b). If the Foundation is in possession of all the resolutions and information, the partial liquidation of the pension fund is carried out by the Foundation. The free assets continue to earn interest at the interest rate determined by the Board of Foundation for the relevant safe-keeping accounts of the associated pension funds until they are transferred.

### 1.2.7 Governing the entitlements of the pensioners

The entitlements of the pensioners to shares in the free assets are governed definitively by these regulations. In cases that are not definitively governed by these regulations, the Foundation shall decide on the further procedure. The pensioners have the same rights to receive information, to make an objection and to lodge a complaint as the active insured persons.

### 1.2.8 Violation of the duties of participation and/or notification by the Board of Trustees

If the Board of Trustees does not fulfil its duties of participation and/or notification in full, the Foundation shall decide whether this comprises the conditions for a partial liquidation. To this purpose it shall provide the active insured persons and/or those who have already left and the pensioners with the documentation required for a partial liquidation on the basis of the address details it has been given and grants them the rights to receive information, to make an objection and to lodge a complaint pursuant to para. 1.2.6 a)-c).

The partial liquidation and the transfer of shares in the free assets are carried out by the Foundation based on the data of which the Foundation is aware. The partial liquidation is finished once the free assets have been transferred.

If after the transfer it is claimed and/or determined that the partial liquidation was carried out based on incomplete and/or incorrect information from the Board of Trustees and/or the employer, the members of the Board of Trustees and/or the employer shall be liable for any compensation that is claimed. The Foundation itself cannot be made liable in any way whatsoever for the losses/damage that arise from this.

### 1.3 Partial or total liquidation of the pension fund with simultaneous liquidation of the Foundation in the case of the determination of a cover shortage (para. 6)

The implementation of measures in the case of a partial liquidation of the Foundation due to a cover shortage determined on the relevant anniversary date (para. 6) is reserved in every case. The value of the contract at dissolution and/or the amount of the assets to be transferred are determined in the case of a partial and a total liquidation of the pension fund based on the provisions of the contract of association and the rules on costs agreed with the Foundation by the employer, which form an integral part of the contract of association. In addition, the regulatory provisions on the measures to alleviate a cover shortage in the Foundation shall apply (cf. Art. 38 of the pension fund regulations).

## 2 Partial liquidation of the Foundation

### 2.1 Free Foundation assets

#### 2.1.1 Reduction in the portfolio of active insured persons in the Foundation

If the total portfolio of all active insured persons in the Foundation - including new entrants and expected changes to the remaining portfolio of insured persons - is reduced by more than 15 % overall by the end of the year due to partial liquidations (in the event of a partial dissolution of the contract of association para. 1.2.1 c) or total liquidations of pension funds (para. 1.1) whose anniversary date is in the same calendar year, and they have belonged to the Foundation for at least two years (cf. para. 2.1.4), the conditions for the partial liquidation of the Foundation are deemed to have been fulfilled. In this case, the Board of Foundation shall determine whether free assets at Foundation level (hereinafter "free foundation assets") exist.

#### 2.1.2 Determination of the free Foundation assets by the Board of Foundation, quantitative minimum requirements

The Board of Foundation determines the amount of any relevant free Foundation assets for the partial liquidation as per the anniversary date and taking into account the recognised principles (e.g. Swiss GAAP FER 26, interests of those remaining in the portfolio). The Board of Foundation hereby honours any material changes to the assets that have already occurred or are to be expected (e.g. due to the development of the investment assets) and/or the liabilities (e.g. taking into account the anticipated growth of the overall portfolio of insured persons) of the Foundation and the requirement to build the operationally necessary provisions and fluctuation reserves. If, however, the target level of the fluctuation reserves and/or the minimum amount of the required technical provisions cannot be achieved, a partial liquidation of the Foundation shall be waived in every case.

If the free Foundation assets equal at least 5 % of the total retirement assets of all the active insured persons in the Foundation at the end of the current calendar year, the Board of Foundation shall carry out the partial liquidation. It records in writing its resolution whether a partial liquidation of the Foundation should be carried out or not (para. 2.3).

#### 2.1.3 Group of beneficiaries and modalities in the case of a partial liquidation of the Foundation

In order for a partial liquidation of the Foundation to be carried out, those active insured persons (incl. those who have already left) and pensioners whose pension fund during the period in question found itself in the state of a total liquidation (para. 1.1) or partial liquidation due to the partial dissolution of the contract of association (para. 1.2.1 c) and who have belonged to the Foundation for at least two years are taken into account. In the event of the execution of the partial liquidation of the Foundation, the entitlements of the active insured persons who are leaving/have left the Foundation (hereinafter: "the leavers"), of the pensioners who are transferred, of the active insured persons who are remaining in the Foundation (hereinafter: "the remaining") and of the pensioners remaining in the Foundation to shares of the free Foundation assets available are determined according to the following principles.

- a) Division of the free Foundation assets between the remaining active insured persons and the remaining pensioners and the leavers and the pensioners being transferred

In a first step, the free Foundation assets are divided into two shares for those remaining in the Foundation beyond the last anniversary date (31 December) of the relevant calendar year including the remaining pensioners on the one hand and, on the other hand, those leaving including the pensioners who are being transferred. This is based on the group of active insured persons and/or persons who have already left and the pensioners to be taken into account as per the anniversary date of the liquidation of the relevant pension fund. The division of the free assets to be distributed is carried out proportionately between the sum of the retirement assets of those remaining and the sum of the mathematical reserves of the remaining pensioners, on the one hand, and the sum of the retirement assets of those leaving and the sum of the mathematical reserves of the pensioners being transferred on the other.

- b) Division of the share of the free Foundation assets between the leavers and the pensioners being transferred

The share of the free Foundation assets determined for the leavers and the pensioners being transferred is divided proportionately in relation to the sum of the retirement assets paid to the leavers by the Foundation and the sum of the mathematical reserves paid to the pensioners being transferred by the Foundation.

The pensioners being transferred are only taken into account in the allocation if the share of the free Foundation assets determined per pensioner is more than CHF 6'000.--, otherwise their share is credited to the leavers.

The transfer of the share for those leaving is made on the basis of the original decision implemented for the pension fund regarding the collective or the individual transfer of free assets. The distribution plan pursuant to Art. 1.2.4 b is used in the event of an individual transfer. The individual share in favour of the pensioners being transferred is paid proportionately in cash in the form of a capital benefit subject to tax, in relation to the amount of the individual mathematical reserve.

- c) Share of free Foundation assets of those remaining and the remaining pensioners

The share of the free Foundation assets determined for those remaining and for the remaining pensioners continues to be managed at Foundation level, however, no claims to this can be made either by active insured persons, pensioners or Boards of Trustees. The Board of Foundation shall decide how these assets should be used in the future.

- d) Distribution plan in the event of a cover shortage

The transfer of the share for those leaving that is to be reduced due to a cover shortage is based on the original decision implemented for the pension fund. The distribution plan pursuant to Art. 1.2.4 e) is used in the event of both an individual and a collective transfer.

- 2.1.4 Minimum term for a contract of association for entitlement to free Foundation assets

In the event of the execution of a partial liquidation of the Foundation, all entitlements to shares in the free Foundation assets on the part of associations (active insured persons and pensioners belonging to the pension fund) that at the time of the anniversary date of the partial liquidation of the Foundation had not been in force for a minimum of two years shall be waived for the whole insured collective.

## **2.2 Reinsurance, provisions, fluctuation reserves of the Foundation**

### **2.2.1 Reinsurance**

To cover the risks of death (before retirement) and earning disability, a collective life insurance contract has been concluded between the Foundation, as policyholder, and Helvetia Swiss Life Insurance Company Ltd, Basle (hereinafter called Helvetia). The investment of the pension fund assets is performed by the Board of foundation on the basis of the provisions of the LOB. The longevity risk (including the risk of death following retirement) is borne by the Foundation itself.

In the contract of association the employer and the Foundation have agreed the modalities of the retention or transfer of pensioners and other recipients of pension benefits (e.g. spouse's pension) in the event of

the termination of the contract of association. The employer representative on the Board of Trustees informs the other members of the provisions to be applied. In addition, the Foundation is entitled to agree with the new employee benefit institution alternative modalities that deviate from the regulations governing the contract of association regarding the retention or transfer of pensioners and other recipients of pension benefits.

### **2.2.2 Reserves**

The Board of Foundation decides on the modalities and the amount of the technical reserves at Foundation level, while observing recognised principles. These reserves form an integral part of the assets of the Foundation and are therefore not part of the assets of the pension fund.

### **2.2.3 Fluctuation reserves**

In accordance with the investment risk that it bears, the Foundation accrues adequate fluctuation reserves - while taking into account recognised principles. These fluctuation reserves form an integral part of the assets of the Foundation and are therefore not part of the assets of the pension fund. The Board of Foundation is responsible for determining the target amount of the fluctuation reserves.

### **2.2.4 Collective entitlement to the technical reserves and the fluctuation reserves**

If ten or more insured persons jointly transfer to another employee benefit institution (collective departure), in addition to an entitlement to the free assets there is a collective pro rata entitlement to the technical reserves, insofar as the actuarial risks have also been transferred, as well as to the fluctuation reserves.

When calculating the entitlement to the technical reserves, the contribution made by the departing collective of insured to the accrual of the reserves must be duly taken into account. The pro rata entitlement to the increase in the Foundation's fluctuation reserves between the date of the beginning of the contract with the affected pension fund and the relevant date of the collective departure is measured on the basis of the interim relative improvement in the funding ratio, up to the amount of the excess cover of the Foundation at most.

The entitlement to the technical reserves and fluctuation reserves thus calculated is transferred to the new employee benefit institution on a collective basis and in cash in every case.

The entitlement to shares in the technical reserves and fluctuation reserves is waived, if the collective departure was caused by the departing group of employees themselves.

The collective entitlement to the technical reserves and the fluctuation reserves will, furthermore, be reduced accordingly if the withdrawing insured did not fully buy into the technical reserves and the fluctuation reserves upon entry into the fund.

### **2.3 Resolution of the Board of Foundation regarding the determination and legal means**

#### **2.3.1 Resolution of the Board of Foundation regarding the determination**

The Board of Foundation records the basis for the determination pursuant to para. 2.1.2 and the decision whether the partial liquidation should be carried out or not in the form of a resolution.

The Foundation informs the Board of Trustees of those pension funds that meet the conditions in the relevant period for a partial or a total liquidation due to the partial dissolution of the contract of association of the resolution. If there is no Board of Trustees that is able to act (e.g. in the case of a partial or total dissolution of the contract of association during the year) the Foundation shall inform the active insured persons and pensioners of the relevant pension fund. The basis for this is the correspondence addresses given to the Foundation.

#### **2.3.2 Right of inspection and objection / right to make a complaint / postponement due to objections and complaints**

##### **a) Right of inspection and objection**

The Board of Trustees and/or the active insured persons and pensioners informed by the Foundation can inspect the relevant files - after prior written notification - at the administrative office of the Foundation during the five days determined by the Foundation in its resolution. In its resolution the Foundation determines a period during which the written notification of the intention to inspect must be presented to the administrative office of the Foundation. Once the inspection has been carried out, an objection may be lodged with the Foundation against the resolution regarding the determination within a period of 30 days.

##### **b) Right to make a complaint**

If no agreement can subsequently be reached, the Foundation shall grant the person making the objection a period of 30 days to make a complaint to the supervisory body and to have the definitive resolution of the Board of Foundation examined by the said body, who shall then make a decision.

The person making the complaint shall inform the Foundation within the same period of time of his/her complaint via a copy of the same. If no complaint is presented to the supervisory authority, or if it is made past the deadline, the resolution regarding the determination of the Board of Foundation shall become legally valid.

- c) Postponement due to objections and complaints  
The procedure for a partial liquidation of the Foundation is suspended for as long as an objection and/or a complaint procedure has not been definitively decided. The execution of the partial liquidation of the Foundation is carried out at the end of the month following the month in which the objection/complaint period expired unused and/or the decision of the supervisory authority became legally valid. Free Foundation assets continue to earn interest at the rate determined by the Foundation Board for the "Extra income" safekeeping account for the associated pension funds until they are transferred. Subject to the provisions in para. 6.

### **3 Payment of the liquidation share**

In the event of the partial or total liquidation of the pension fund and/or the foundation the value at termination of the contract is paid out in cash.

### **4 Cost participation of pension fund**

The distribution of the individual or collective benefits to the entitled group of beneficiaries is subject to costs. The amount of these costs depends on the expenses incurred by the Foundation, in particular the number of payments to be made. Such costs are particularly liable to arise if the individual entitlements to free assets need to be transferred retrospectively, after the termination benefit due has already been paid. The costs can be deducted by the Foundation in advance from the shares in the technical reserves and the fluctuation reserves as well as the free assets and/or entitlements to free Foundation assets.

Any costs incurred by the Foundation for obtaining reports/expertises in connection with the processing of objections and/or complaints, etc. can also be debited as settlements to the pension fund assets and/or the entitlements to free Foundation assets and/or free assets and/or employer's contribution reserves, insofar as the objections and complaints are proven to be unfounded. Those costs that arise for the Foundation because the Board of Trustees did not fulfil its duties of participation and notification can also be debited to the shares in the technical reserves and fluctuation reserves as well as the free Foundation assets and/or the free assets as settlements.

**5 Amendments to the assets and liabilities of the pension fund and/or the assets and liabilities of the foundation between the anniversary date and execution of the partial liquidation - retrospective notification of survivor's or disability benefits**

If the assets and liabilities of the pension fund and/or the assets and liabilities of the foundation should change between the anniversary date and the time of the transfer by at least 5 %, the relevant assets and liabilities to be transferred must be adjusted accordingly.

If the Foundation has to pay survivor's or disability benefits after it has paid out the technical reserves and the fluctuation reserves and/or the free assets, the share of the technical reserves and fluctuation reserves as well as the share of the free assets must be repaid to the foundation - in addition to the individual termination benefits.

**6 Special case: Partial liquidation of the Foundation due to a cover shortage**

**6.1 Regular calculation of the Foundation's funding ratio**

The Board of Foundation calculates the Foundation's funding ratio on a regular basis, taking into account recognised accounting principles. If at the anniversary date of the entry of a partial or total liquidation of the pension fund the Foundation has a funding ratio of less than 100 %, it has a cover shortage.

**6.2 Fixed procedure in the case of a cover shortage**

If the Foundation has a cover shortage at the relevant anniversary date of the entry of a partial or total liquidation of a pension fund, the shortage determined is deducted proportionately from the value of the contract at dissolution in every case, regardless of the term of the contract of association and the modalities of the execution of the partial and/or total liquidation of the pension fund. In addition, the provisions governing the measures to alleviate a cover shortage of the Foundation and the provisions of the contract of association and the rules on costs agreed between the employer and the Foundation shall apply.

The procedure for the partial liquidation of the Foundation in the case of a cover shortage determined as per the relevant anniversary date is implemented immediately.

**7 Examination of the state of liquidity of the pension fund and the Foundation by the auditors**

The auditors examine the state of liquidity at pension fund and Foundation level in accordance with the provisions of the law as part of their annual audit and within the framework of the present regulatory provisions.

**8 Non-governed cases**

Any cases not expressly governed by these regulations will be dealt with by the Foundation by adopting appropriate rules that take into account the statutory provisions.

**9 Issue of and amendments to the regulatory provisions on the partial and total liquidation of the pension fund and/or partial liquidation of the Foundation**

The regulatory provisions on liquidation were issued by the Board of foundation and approved by the supervisory authority. They enter into force on 1<sup>st</sup> January 2013. The Board of foundation may approve amendments to the regulatory provisions at any time, subject to official authorisation.

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